

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	18 March 2013	<b>Item:</b> Paper (13) 15

<b>Title:</b>	Final LSB Business Plan and budget 2013/14	
<b>Workstream(s):</b>	All	
<b>Presented by:</b>	Edwin Josephs, Director of Finance and Services Julie Myers, Corporate Director Chris Kenny, Chief Executive	
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<b>Status:</b>	Protect	

<b>Summary:</b>
<p>The Board is asked:</p> <ul style="list-style-type: none"> <li>- to agree the Business Plan 2013/14 (including research plan);</li> <li>- to agree a budget of £4,458k to deliver the Plan for 2013/14;</li> </ul> <p>The Board consulted on its draft Business Plan for 2013/14 in December 2012. The consultation closed in March and we received 17 responses. A summary of the responses and proposals for an LSB response to them can be found at <b>Annex A</b>. The executive recommends that a small number of changes to the draft Plan be made, because of both the consultation responses and work undertaken internally since the consultation was published.</p> <p>A tracked draft of the Final Business Plan for 2013/14 can be found at <b>Annex B</b>. This document will be finalised for publication (on 2 April 2013) pending outcome of Board discussion and decision. It is still very much „work in progress’.</p> <p>At <b>Annex C</b>, the Board will find the proposed operational budget and a cash flow forecast. The Audit and Risk Committee (ARC) endorsed this budget at their meeting on 11 March.</p> <p>Finally, the executive also prepares, on an annual basis, a Research Plan to support delivery of the Business Plan. The Research Plan for 2013/14 is contained within the Final Business Plan at page 27.</p>

<b>Risks and mitigations</b>	
<b>Financial:</b>	Formal budget delegation will still be needed from Ministry of Justice ( <b>MoJ</b> ). MoJ have verbally confirmed that we should work on the basis of having delegated authority for expenditure of £4,458k and the matching income figure for 2013/14 and that formal indicative budget delegation letters, showing a net delegated budget of £0 should be sent shortly.
<b>FoIA:</b>	Cover paper, para 17, 18, 20 exempt under Section 36 Annexes A and B exempt under Section 21
<b>Legal:</b>	N/A.

<b>Reputational:</b>	We undertook a public consultation on the draft Plan and received a variety of responses. A number of the responses rehearsed previous criticisms of our approach to our role and our work programme albeit updated in the context of recent activity. The draft response document deals with the points thoroughly.
<b>Resource:</b>	The executive's assessment is that the current work programme stretches the limits of the LSB's proposed budget bearing in mind the complexity of some activities and operational pressures arising from expected accommodation changes.

Consultation	Yes	No	Who / why?
<b>Board Members:</b>	✓		<b>ARC</b> has endorsed the proposed budget of £4,458k for 2013/14
<b>Consumer Panel:</b>		✓	The draft Plan was sent to the Panel but no formal response was submitted

<b>Others:</b>	
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<b>Recommendation(s):</b>
<p>The Board is invited:</p> <ol style="list-style-type: none"> <li>1) to consider and discuss the responses to the draft Business Plan for 2013/14 and agree in principle the proposed changes to the Plan;</li> <li>2) to agree the proposed budget of £4,458k;</li> <li>3) to delegate authority to approve the sign-off of the Plan to the Chairman and the Chief Executive in order to allow publication on 3 April 2013;</li> <li>4) to agree the research plan for 2013/14.</li> </ol>

## LEGAL SERVICES BOARD

To:	Legal Services Board	
Date of Meeting:	18 March 2013	Item: Paper (13) 15

### Business Plan 2012/13 – response to consultation

#### Executive Summary

#### Recommendation(s)

The Board is invited:

- 1) to consider and discuss the responses to the draft Business Plan for 2013/14 and agree in principle the proposed changes to the Plan (Section A);
- 2) to agree the proposed budget of £4,458k (Section B);
- 3) to delegate authority to approve the sign-off of the Plan to the Chairman and the Chief Executive in order to allow publication on 3 April 2013;
- 4) to agree the research plan for 2013/14.

#### Section A:

#### Business Plan 2013/14 – response to consultation

1. **Annex A** presents a comprehensive summary of the 17 responses to our consultation, which ran from 12 December 2012 to 4 March 2013. Six responses were from approved regulators and/or their regulatory boards.
2. We had no responses from consumer organisations. As in previous years, our informal contact with some of these bodies suggests this remains because they are broadly content with our approach.
3. In line with our usual approach to consultation, we will publish the final consultation response summary alongside our final Plan.
4. **Annex A** addresses the full range of points made in responses. All of the consultation responses are available if Board members wish to review and they will be available at the Board meeting.
5. **Annex B** contains a „work in progress’ draft of the final Plan. Board members are cautioned that the executive intends to finalise the Plan informed by this Board discussion and that as a consequence there is still considerable work to be done to this version. In particular, the Chairman and Chief Executive’s forward has not yet been prepared. We would very much welcome drafting comments by Board members outside of the meeting and will additionally circulate to you a near-final version in week beginning 25 March. It will be finalised in time for publication immediately after Easter (3 April).

#### Key points from responses

##### *The LSB’s role and approach*

6. As in previous years, a number of responses provided generic commentary on the way in which the Board undertakes its statutory functions, rather than the specifics of the Plan itself. The critical commentary can be simplified as „*the Board does not understand its remit and as such exceeds it and micromanages*’. **The Board’s attention is drawn to paragraphs 8-9 of Annex A** for a more

detailed analysis of these criticisms and a proposed response to them. The Board may also wish to consider the areas respondents identified as being omissions from the Plan, including the response from the judiciary, and which can be found at paragraphs 12-23 of Annex A.

#### *Areas for Consumer Panel advice*

7. The Board did not propose to seek formal Panel advice on any specific issue in 2013/14. Nothing has emerged from the responses to suggest this should be changed. The Panel themselves are comfortable with that conclusion.

#### **Proposed content for final Plan**

8. The changes we therefore propose to make in the final Plan (only some of which are reflected in the version at Annex B) therefore reflect a mixture of
  - a recognition of some specific requests from the consultation such as agreeing to share our work on our consumer toolkit with regulators and re-shaping our research work programme
  - making some changes in tone and style in part to reflect critical reactions including making clearer our commitment to access to justice and our awareness of the impact on the prevailing economic climate on providers and consumers .
9. However, the broader bulk of the changes proposed reflect changes in the executive's own thinking and planning as the consultation period has progressed. This is most noticeable in the context of the further development of the scope of regulation and cost and complexity of regulation projects. We are also proposing not to undertake a formal review of our approach to assuring independence in 2013/14 as originally planned, whilst highlighting the strategic concerns which continue to keep the subject on the "watch list".
10. We would however characterise them as representing fine-tuning and development rather than fundamental change.

#### **Scope for additional change**

11. We have considered whether we should go further in revising the Plan and have concluded that it would not be realistic to do so for a number of reasons
  - the work programme is already tight. Some small increase in staff numbers (funded from within the proposed budget) may well be needed to deliver it as it stands and there will be pressure on prioritisation if, as is more likely than before, we find ourselves either in a stand-off or court battle with one or more stakeholders
  - we need to maintain our overall narrative about strictly focusing on our own statutory role, giving regulators the freedom to make their own

decisions, but holding them to account for performance and seeking to liberalise regulation generally to aid growth in the wider economy as well as the legal services sector itself. That implies, for this year at least, something of a self-denying ordinance in terms of not undertaking new initiatives which add work to regulators, but also being absolutely rigorous in insisting that they follow through on existing priorities

- an accommodation move could introduce significant uncertainty at a practical level (and forms part of the rationale for the increase in headcount suggested above).

### **Recommendation 1**

**The Board is invited to consider and discuss the responses to the draft Business Plan for 2013/14 and agree in principle the proposed changes to the Plan**

### **Section B:**

#### **Budget recommendation for 2013/14**

12. The draft Plan outlined a proposed budget of **£4,458k** – a reduction of £50k from 2012/13, and it formed part of the Plan consultation.
13. The Executive reviewed the budget proposal in light of the following and concluded that the level remained appropriate:
  - the tenor of responses to the consultation
  - changes in the policy environment since the consultation document was formulated in October 2012
  - specific issues should the probable move from Victoria House be confirmed.
14. The budget proposal was therefore considered by the ARC at its 11 March meeting, and it was endorsed. The key points considered by the ARC are below.
15. We will also have shared the Plan and budget proposals with MoJ before the Board meeting. We do not expect any adverse comment – the draft Plan was reviewed by Ministers before consultation and there were no adverse comments on the indicative budget – but we are making sure that they are aware of responses and that our proposal has not altered. We will report any further MoJ comment at the meeting.

### **Consultation responses**

16. Where respondents referred to the budget, they questioned:
  - whether a £50k reduction overall is ambitious enough in the light of pressures on the sector and the level of resource saving being offered by central government in 13/14

- in particular, whether further reductions should be made in the research budget over and above the £50k already planned.

### **Operating context – policy environment**

17. As noted separately in paper 13 (19) Corporate Risk Register, there has been a marked increase in the risks and volatilities in our operating environment at present. This is due to the:

- [REDACTED]
- increased likelihood of judicial review challenge, evidenced by the rising anti-LSB rhetoric
- need for greater focus on communications and relationship management issues in the light of the heightened level of rhetoric.

Unless the Board were to decide to shift its focus away from performance issues as a reaction to this increase in risk, the last two pressures are unlikely to diminish. The Executive do not consider such a shift to be a credible option.

### **Operating context – operational Issues**

18. Since drafting the plan, we have had confirmation of the Competition and Markets Authority's (CMA) intention to be located in Victoria House. We understand that we will very shortly be served with „notice to quit' the building within six months (although our initial „prescribed term' runs until the end of October 2013. [REDACTED]

19. Moving out of the building may add significantly to cost and staffing pressures in the middle quarters of the year. It is too early as yet to quantify the precise level at which costs may arise, but they may well include:

- dilapidations costs at Victoria House (one off)
- fit out, design, space planning etc in a new location (one off)
- removal costs (one off)
- the need to „restructure' some costs of activities currently outsourced to the Competition Commission e.g. finance and IT (on-going)
- changes to disaster recovery arrangements (on-going)
- specialist project management inputs to manage all or part of the move itself (one off)

20. [REDACTED]

21. We need to recruit a new OLC Chair and two Members and six Consumer Panel Members in 2013/14. In the current year, we have spent nearly £25k to recruit one Consumer Panel Member, and even though some costs are fixed eg advertising there will be a large variable element according to number of positions recruited. We will examine alternative organisations to help us with this, which may be more cost effective than using the ones recommended by MoJ (and already on the Government Procurement Frameworks).

**Impact**

22. Taken together, these changes can only add to cost pressure in the 2013/14 budget. Indeed, reasonable business cases can be made to increase headcount within both policy and corporate areas and the Accounting Officer has indicated that he is prepared to consider such cases, but only in the context of the current budgetary limit.

23. Depending on the extent to which anticipated costs pressures eventuate, we may need to revert to the Board later in the year to invite it to slim down or slip elements of the policy programme if „attrition’ tactics or formal challenges make the pace of progress significantly less than ideal and/or other pressures add major unavoidable items of work.

24. This is because these changes would come against an already tight backdrop in which

- the peak of approvals work running through the first three quarters of the year and commitments to following through on existing work means that the organisation was already due to be under significant operational pressure
- we had already planned to absorb some significant non-staffing budget increases (IT maintenance contracts for ageing equipment, Microsoft’s decision to stop supporting Windows XP etc) within existing resources.

25. Indeed, in a different economic and expenditure climate, there would be a case for seeking a small increase in the budget we have consulted upon. However, it is our clear view that this would not be prudent either from a political or reputational perspective.

### **Rationale for coping with pressures and maintaining current proposed budget**

26. In practice, there is a small amount of room for manoeuvre in the following areas:

- while the calculations for the staffing budget allow for a 3% pay increase, our operating assumption has been reduced to a replication of this year's 1%
- whereas in previous years it has been possible to extend the research budget through in-year savings elsewhere, there seems little prospect of increasing beyond the £250k suggested in the consultation draft. This is a reduction of £50k on this year's budget and some £180k on the likely level of spend in 2012/13. In practice, we would propose announcing a £250k budget, but avoid committing a significant portion until mid-year when there will be a clearer sense of actual pressures on accommodation and some reprioritisation may be needed
- reducing the staffing training/conference/CPD budgets
- „frictional vacancy' savings – it is unlikely that *no* such savings would arise in the year, but, given our size, artificially extending vacancies would add to as many problems as it solved and, of course, it is by definition difficult to put any precise estimate on these costs. Equally, we do need to be aware that any such savings may be offset to a greater or lesser extent by the need to, for instance, secure interim cover e.g. for maternity.
- the draft budget included £90k for depreciation. We have subsequently confirmed with MoJ and NAO that we do not need to capitalise spend on the research website (carried out in this year) and likewise anything we spend in 2013/14 on the general website. Taking this into account our assessment is that our depreciation charges will now be around £40k. This gives an amount of approximately £50k to alleviate some of the cost pressures as described previously. Previous savings in our annual budget were dismissed by some regulators as „simply depreciation' in the past and we didn't receive any credit for this.

### **Budget conclusion**

27. Taking all the previous factors into consideration, the Executive's assessment is that, although challenging, keeping the budget at the same overall level is manageable and spending prioritisation can be made later in the year particularly as:



- current room for manoeuvre already limited
- changes noted as above
- assessment that the environment we are operating in means we will be facing higher levels of risk and uncertainty
- unknown level of potential accommodation savings in a new building
- commitment already made to reduce our budget by another £50k in 2014/15.

28. This view was endorsed by the ARC.

**Recommendation 2:**

**The Board is invited to agree the proposed budget of £4,458k.**

**Recommendation 3:**

**The Board is asked to delegate authority to approve the sign-off of the Plan to the Chairman and the Chief Executive in order to allow publication on 2 April 2013**

**Section C:**

**Proposed Research Plan 2013/14**

29. The Board will find included within the Business Plan at page 26-30, our proposed Research Plan for 2013/14. This has been developed to support delivery of the Board's Business Plan for the same period, including to supplement proposed work on cost and complexity of regulation.

30. The key points for the Board to note are

- we have not been successful in gaining offers of co-funding from regulators or professional bodies, despite the role they have around the Research Strategy Group table in helping to set priorities;
- whilst there has been some criticism of our priority areas for research, there have been few, if any, suggestions for alternative areas of work nor evidenced suggestions that any our proposals are duplicative. In the absence of much significant work by regulators and others to develop an evidence base for action, there seems little strategic case for any diminution in our commitment to research activity;

31. However, the amount of research delivered in 13/14 is likely to be significantly less than previously for the tactical and resourcing reasons set out in paragraph 26 above.

32. The Board should also note one specific change. When we published our Final Baselines Report in October 2012, we committed to refreshing the analysis in October 2013 with annual reports thereafter, noting that we would use it as our baseline for future measurement. We now propose to do a rather fuller exercise

in 2014/15 – rather than in 2013/14 and when there are likely to be rather more substantial changes in data to assess, and to concentrate our efforts on developing the evidence base around growth, simplification and the cost of regulation. The Board may note that the Consumer Panel has come to a similar view about preparing updates of its Consumer Impact Report on a biannual rather than annual basis.

#### **Recommendation 4:**

**The Board is asked agree the research plan for 2013/14**

#### **Next steps**

33. Pending approval by the Board, the Executive will make the necessary amendments to the suite of documents presented today.
34. We plan to publish the documents on 3 April 2013. As stated above, whilst we do not expect to have a formal budget delegation letter by that date (an identical situation to previous years) we do expect to have budget approval in principle. Key points arising from the consultation have been passed to MoJ in advance of this meeting and we will provide an oral update at the meeting if we have had any response.

#### **Matters for the Board**

35. The Board is invited:
  - 1) to consider and discuss the responses to the draft Business Plan for 2013/14 and agree in principle the proposed changes to the Plan;
  - 2) to agree the proposed budget of £4,458k;
  - 3) to delegate authority to approve the sign-off of the Plan to the Chairman and the Chief Executive in order to allow publication on 3 April 2013;
  - 4) to agree the research plan for 2013/14.

09.03.2013