

Minutes of a meeting of Legal Services Board (LSB) on 27 July 2010

Date: 27 July 2010

Time: 9.30 am – 12.30 pm

Venue: Victoria House, Southampton Row, London WC1B 4AD

Present: David Edmonds Chairman
(Members) Chris Kenny Chief Executive
 Terry Connor
 Steve Green (Items 1-7 and 9 onwards)
 Bill Moyes
 Barbara Saunders
 David Wolfe

Guests: John Briton Legal Services Commissioner, Queensland (Items 1-6)

In attendance: Steve Brooker Consumer Panel Manager (Items 1-6)
 Robert Cross Regulatory Information Manager
 Fran Gillon Director of Regulatory Practice
 Edwin Josephs Director of Finance and Services
 Bruce Macmillan General Counsel
 Michael Mackay Administrative Assistant (Items 1-12)
 Julie Myers Corporate Director
 Crispin Passmore Strategy Director
 Alex Roy Research Manager (Item 13)
 Bryan Hislop Board Secretary (Minutes)

Item 1 – Welcome and apologies

1. The Chairman welcomed John Briton (Legal Services Commissioner, Queensland), who was attending for Item 3; and Robert Cross (Regulatory Information Manager) and Michael Mackay (Administrative Assistant), who were attending as observers.
2. There were apologies for absence from Nicole Smith and Andrew Whittaker.

Item 2 – Declarations of interests etc.

3. There were no declarations of interests.
4. Board Members were reminded to notify the Board Secretary about hospitality extended / received in the course of their LSB work.

Item 3 – John Briton – Legal Services Commissioner, Queensland

5. Mr Briton, who was appointed Queensland's first Legal Services Commissioner in 2004, delivered a presentation about the reform of legal services in Australia, the role

of the Legal Services Commission in Queensland (LSC) and the federal government's proposals to introduce at a national level bodies similar to LSB and LSC.

6. In the course of the presentation and the discussion that followed, Mr Briton commented that:
 - the driver of the proposed reforms in Australia was the dissatisfaction with the process of legal harmonisation and the national model laws, which had failed to address inconsistencies at State and Territory level;
 - LSC had developed online surveys to allow Incorporated Legal Practices (ILP) and other legal firms to test the effectiveness of discrete aspects of their ethical and compliance infrastructure; and
 - the introduction of ILPs – the preferred business model for new firms in Queensland – had been matched by a two-thirds reduction in the number of complaints from consumers.
7. The Board expressed its gratitude to Mr Briton.

Item 4 – Minutes: 29 June 2010

8. **The Board resolved to agree the minutes of the meeting held on 29 June 2010 and to submit them for signing as an authorised record to the Chairman.**

Item 5 – Report of action points

9. The LSB Governance Manual had been published in accordance with the delegation agreed by the Board on 29 June.
10. **The Board resolved to note the Report of action points.**

Item 6 – Paper (10) 54: Chief Executive's progress report: July 2010

11. Chris Kenny (Chief Executive) presented his progress report.
12. The Board noted in particular:
 - the Programme highlight report;
 - the developments in respect of Alternative Business Structures (ABS), including in respect of the implementation timetable, meetings with officials at the Better Regulation Executive and financial institutions' increasing interest in the implementation of ABS;
 - the developments in respect of agreeing a framework of performance indicators for Office for Legal Complaints (OLC); and
 - that the Chairman and the Chief Executive had met: Lord Young of Graffham to discuss his review of health and safety law and practice and the growth of the so-called 'compensation culture'; and Jonathan Djanogly MP

(Parliamentary Under Secretary of State for Legal Aid and legal services, Ministry of Justice (MoJ)) about the LSB Annual Report and Accounts 2009/10.

13. The Board noted also updates about:

- the central government controls in respect of marketing and advertising spend, recruitment and remuneration;
- the progress in respect of issuing demands for the first instalment of the levy for the set up costs of OLC, and the consultation document on the levy for the running costs of LSB and OLC, which was issued on 8 July;
- the Law Society of Ireland's letter before action challenging LSB's decision to approve Solicitors Regulation Authority's (SRA) regulations enabling the introduction of the new Qualified Lawyers Transfer Scheme;
- the Joint Advocacy Group's (JAG) proposals in respect of Quality Assurance for Advocates (QAA), which would be considered at a stakeholder meeting to be convened later that day; and
- the outputs of the stakeholder meeting on 26 July about the non-regulated will-writing market and the proposals for identifying through evidence the real causes of detriment to consumers and appropriate (regulatory and/or non-regulatory) approaches to mitigate such risks.

14. The Board also agreed to delegate authority:

- to approve the publication of a consultation document about the ABS appeal mechanism (including the draft Order under s80 of Legal Services Act 2007 ('the Act'), rules and guidance) to the Chairman and the Chief Executive; and
- to set or to direct OLC to set performance indicators relating to the performance by OLC of any of its functions (in accordance with s121 of the Act) to the Chairman, if required and based on the advice of the Chief Executive, Bill Moyes and Steve Green.

15. It was agreed also to invite the Audit and Risk Committee to review and to report on its formal role in respect of OLC.

Action

(10) 17 – To invite the Audit and Risk Committee to review and to report on its formal role in respect of OLC.

The Board resolved:

- a) to note the Chief Executive's progress report;
- b) to agree to delegate authority to approve the publication of a consultation document about the ABS appeal mechanism (including the draft Order under s80 of the Act, rules and guidance) to the Chairman and the Chief Executive; and
- c) to agree to delegate authority to set or to direct OLC to set performance

indicators relating to the performance by OLC of any of its functions (in accordance with s121 of the Act) to the Chairman, if required and based on the advice of the LSB Chief Executive, Bill Moyes and Steve Green.

Item 7 – Paper (10) 55: Q1 performance report: April – June 2010

16. Julie Myers (Corporate Director) introduced a paper setting out the Q1 report of performance against the Business Plan 2010/11, which also included the draft submission to MoJ.
17. In the course of the discussion that followed, the Board noted:
- the quarterly highlight report, the format and content of which had been revised again at the request of MoJ to ensure coverage of the full range of LSB's achievements and project risks;
 - an overview of regulatory decisions in the quarter;
 - the quarterly activity report from the Consumer Panel; and
 - the assessment of LSB's status of its over-arching programme to deliver the Business Plan 2010/11.

18. [REDACTED]

19. The Board noted and agreed to review in six months the impact on the resources etc of LSB of meeting the reporting requirements of MoJ. The Chairman also agreed to raise the matter at his next annual review.

Action

(10) 18 – To review in six months and to raise at the next annual review of the Chairman the impact on the resources etc of LSB of meeting the reporting requirements of MoJ.

The Board resolved:

- a) to note the draft Q1 performance report; and
- b) to agree to its use as a basis for discussion with MoJ [REDACTED]

[REDACTED]

Item 8 – Paper (10) 56: Finance report: June 2010

20. Edwin Josephs (Director of Finance and Services) introduced the Finance report.
21. The Board noted that MoJ had still not provided written confirmation of the budget allocation for 2010/11.

The Board resolved to note the Finance report.

Item 9 – Paper (10) 57: Audit and Risk Committee: 29 June 2010

22. Bill Moyes (Committee Chairman) presented the draft minutes of the extraordinary meeting held on 29 June, which had endorsed and recommended to the Board short notice revised advice from the National Audit Office ('External Auditor') to record expenditure incurred by MoJ in 2008/09 in respect of the set up of LSB in the Net Expenditure Account for 2009/10.
23. The Committee Chairman and the Executive would meet to consider the lessons learned and the next steps in respect of the performance of the External Auditor.

The Board resolved to note the draft minutes of the Audit and Risk Committee meeting held on 29 June 2010.

Item 10 – Paper (10) 58: LSB framework agreement

24. The Corporate Director introduced a paper about the draft LSB / MoJ framework agreement, which best practice recommended using to underpin the relationship between non-departmental public bodies and sponsor departments.
25. The Executive had spent some time working with MoJ officials to develop a mutually acceptable draft framework agreement, although a small number of points at issue were still to be resolved to the satisfaction of LSB.

The Board resolved:

- a) to note the draft LSB framework agreement;
- b) to agree that the points at issue were those set out in the paper; and
- c) to delegate authority to approve the LSB framework agreement once the points at issue were resolved to the Chairman and the Chief Executive.

Item 11 – Any other business

26. There were no items of other business.

Item 12 – Date of next meeting

27. The Board would next meet on 7 September 2010, 9.30am – 1.30pm (timing to be confirmed). The venue would be LSB's offices at Victoria House, Southampton Row, London WC1B 4AD.

Item 13 – Paper (10) 59: Business planning workshop

(a) Business Plan 2011/12

28. Crispin Passmore (Strategy Director) introduced a paper about the development of

the Business Plan 2011/12. The paper set out the milestones delivered since May 2009 and the planned milestones for the period to the end of 2011/12.

29. In the course of the discussion that followed, the Board:
- noted and agreed the Executive's recommendation to use the critical milestones for 2011/12 set out in the paper as the basis for the Business Plan 2011/12, subject to including milestones for Approved Regulator capacity building; and
 - noted that the draft Business Plan 2011/12, which would set out potential risks and the proposed allocation of resources, would be presented to the Board on 28 October prior to public consultation. It was noted, however, that the Senior Management Team had agreed Project Initiation Documents (which identified potential risks and mitigations) for a number of the projects with milestones in 2011/12.

The Board resolved to agree that the Business Plan 2011/12 should follow the format of the current year (2010/11) and the workstreams / milestones in place for 2011/12.

(b) LSB evaluation framework

30. Alex Roy (Research Manager) delivered a presentation about a proposed LSB evaluation framework, which would use indicators, activities, milestones and outcomes to measure and to report on the performance and impact of LSB.
31. In the course of the discussion that followed, the Board:
- noted and agreed to retain the outcomes consulted on and set out in the Business Plan 2010/11;
 - noted that the indicators, which would be both qualitative and quantitative, would be determined based first on an assessment of the data recorded and available (including from the Approved Regulators); and
 - noted that the indicators would not be used as individual targets, but collectively to demonstrate progress towards the delivery of, in turn, activities, milestones and outcomes.
32. The Board noted that the strategy session scheduled for 7 September would focus on the development of new priorities for 2012/13-15/16, post-ABS implementation.

The Board resolved to note that the proposed evaluation framework would be developed and presented to the Board in the Autumn.

BH 28.07.10

Signed as an accurate record of the meeting

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Date

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