

Minutes of a meeting of Legal Services Board (LSB) on 28 January 2010

Date: 28 January 2010

Time: 9.30 am – 12.40 pm

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

Present: David Edmonds Chairman
(Members) Chris Kenny Chief Executive
 Terry Connor
 Steve Green
 Rosemary Martin
 Bill Moyes
 Barbara Saunders
 Nicole Smith
 David Wolfe

Guests: Peter Handcock CBE Director General – Access to Justice, Ministry of Justice (MoJ) (Items 1-3)

In attendance: Ramandeep Bhatti Administrative Assistant (Items 1-12)
 Anna Cheung Regulatory Associate (Items 1-12)
 Lesley Davies Regulatory Project Manager (Items 1-4)
 Fran Gillon Director of Regulatory Practice (Items 1-12)
 Chris Handford Project Manager (Item 8)
 Craig Jones Media and Public Affairs Manager (Items 1-12)
 Edwin Josephs Director of Finance and Services (Items 1-12)
 Emily Lyn Regulatory Associate (Items 1-4)
 Bruce Macmillan General Counsel (Items 3-12)
 Julie Myers Director of Corporate Affairs (Items 1-12)
 Crispin Passmore Director of Strategy and Research (Items 1-12)
 Bryan Hislop Board Secretary (Minutes)

Item 1 – Welcome and apologies

1. The Board welcomed Peter Handcock (Director General – Access to Justice, MoJ), who was attending for Item 3; and Ramandeep Bhatti (Administrative Assistant) and Anna Cheung (Regulatory Associate), who were attending as observers.
2. There were apologies for absence from Andrew Whittaker.
3. The Board noted that Rosemary Martin would stand down as a Board Member on 31 March, following her appointment as General Counsel and Company Secretary of Vodafone Plc. The Chairman congratulated Ms Martin on her new appointment, noting however his regret that LSB would lose the benefit of her valuable contributions and expertise.

Item 2 – Declaration of interests etc.

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

Item 3 – Peter Handcock CBE (Director General – Access to Justice, MoJ)

6. Mr Handcock delivered a presentation about MoJ's work in respect of access to justice and LSB's duty to promote access to justice.
7. In the course of his presentation, Mr Handcock commented that:
 - LSB was uniquely placed to influence and to promote access to justice, which was characterised by a system that was accessible both to consumers and to providers;
 - the characteristics of an 'accessible' system – from the perspective of the citizen – were consumer confidence, affordability, availability and quality, under-pinned by an effective system of redress;
 - the significant reforms of legal services extended well beyond regulation of the market, covering for example costs and legal processes, the introduction of price competition and new supplier delivery models; and
 - LSB was well positioned to coordinate and to influence these reforms, whatever the direction of political developments in the coming months.
8. The Board and Mr Handcock then discussed a range of topics, including: quality assurance for advocates (QAA); the public funding of legal services; the role of the third sector as a provider of legal services; and the role of LSB in respect of policy development.
9. The Board expressed its gratitude to Mr Handcock, who then left the meeting.

Item 4 – Paper (10) 01: Draft access to justice strategy

10. Crispin Passmore (Director of Strategy and Research) and Lesley Davies (Regulatory Project Manager) introduced a Paper about LSB's proposed approach to access to justice.
11. The Board noted that access to justice was a wide concept, including public legal education (about rights and processes), access to legal services (from advice to litigation) and structures (courts, tribunals, etc.). It was a regulatory objective to improve access to justice, and as such it was being embedded into LSB's project management methodology, and specific activities to promote this objective were included in the draft Business Plan 2010/11.
12. The Board agreed that LSB must demonstrate over time an improvement in access to

justice from the perspective of the consumer, using for example performance indicators and outcomes linked to the five characteristics of an 'accessible' system suggested by Mr Handcock. This would require research to establish an evidence base for reforms and appropriate benchmarks, although it was agreed that the pace of some developments in the legal services market (including, for example, price comparison websites) necessitated more urgent – but still informed – action.

13. The final access to justice strategy would be presented to the Board on 24 March.

Action

(10) 01 – To present the final access to justice strategy to the Board on 24 March.

The Board resolved to agree the proposed approach to access to justice.

Item 5 – Minutes: 17 December 2009

14. The Board agreed to amend the first sentence of Minute 16 to read: 'The Board noted the Consumer Panel Chair's concern that allowing two 'free cases' per year could still lead to significant consumer detriment, particularly in respect of the consumers of services of small firms.'
15. **The Board resolved to agree the amended minutes of the meeting held on 17 December 2009 and to submit them for signing as an authorised record to the Chairman.**

Item 6 – Action points

16. **The Board resolved to note the report of action points.**

Item 7 – Paper (10) 02: Chief Executive's progress report: January 2010

17. The Chief Executive presented his progress report.
18. The Board noted that three new Project Managers and two new Regulatory Associates would join LSB during March / early April.
19. The stakeholder consultation workshops about the draft Business Plan 2010/11 were scheduled for 12 February. Board Members were welcome to attend.
20. The Board noted that National Audit Office had issued an unqualified audit opinion in respect of the accounts for the three-month period ending on 31 March 2009, which had been re-stated to comply with the new International Financial Reporting Standards.
21. The Board noted the new format of the project progress report, which was one of the outputs of the new integrated project and risk management process, coordinated by the Business Planning Associate. In particular, it was noted that:

- the Executive was developing the invitation to tender for the proposed regulatory review of Solicitors Regulation Authority (SRA);
 - a timetable for implementing the Internal Governance Rules (IGRs) had been agreed by the Executive and an update would be presented to the Board on 29 June; and
 - the Chief Executive had been invited to join – and to chair a sub-group of – the implementation group arising from the publication of Unleashing Aspiration: the Government Response to the Final Report of the Panel on Fair Access to the Professions.
22. The Joint Advocacy Group was continuing to make good progress in respect of QAA, although it was noted that many aspects of the process remained contested. An update about QAA would be presented to the next meeting of the Board.
23. A paper about the Jackson Review of Civil Litigation Costs, in particular its implications for LSB, would also be presented to the next meeting of the Board. It was agreed that the focus of LSB should be referral arrangements (which were already the subject of separate research projects by LSB and the Consumer Panel), but that the Executive should explore opportunities to engage in the wider access to justice issues raised by the Review.
24. The Board acknowledged the pro-active communications work supporting the launch of the new regulatory arrangements, which included features in both the legal and general media. It was agreed that the Executive would alert Board Members in advance of any significant LSB-related media or stakeholder engagements or events.
25. The Board also noted:
- that the Chairman attended meetings of the Consumer Panel and Office for Legal Complaints (OLC) Board on 14 and 18 January respectively;
 - progress and risks in respect of the launch of OLC and the new Legal Ombudsman scheme; and
 - updates about the two legal actions to which LSB and OLC respectively were parties.

Actions

(10) 02 – To present an update about the implementation of the IGRs to the Board on 29 June.

(10) 03 – To present an update about QAA to the next meeting of the Board.

(10) 04 – To present a paper about the Jackson Review of Civil Litigation Costs, in particular its implications for LSB, to the next meeting of the Board.

(10) 05 – To alert Board Members in advance of any significant LSB-related media or stakeholder engagements or events.

The Board resolved to note the Chief Executive's progress report.

Item 8 – Paper (10) 03: Rule approval update

26. The Director of Strategy and Research and Chris Handford (Project Manager) introduced a Paper about key developments in respect of the agreed process for approving alterations to the regulatory arrangements of Approved Regulators (AR).
27. The Board noted that the Executive was engaging pro-actively with individual ARs about the alterations that they proposed to make to their regulatory arrangements during 2010/11 and the information that LSB would require to assess those proposals.
28. The Board noted that MoJ had advised that it was not competent under Legal Services Act 2007 ('the Act') or the transitional arrangements to process the outstanding application by The Institute of Chartered Accountants in England and Wales (ICAEW) to become an AR in relation to probate activity. The application therefore would have to be submitted for assessment to LSB and would be subject to the prescribed fee. An update about the application would be presented to the next meeting of the Board.

Action

(10) 06 – To present an update about the ICAEW application to become an AR in relation to probate activity to the next meeting of the Board.

The Board resolved to note the update about the rule approval process.

Item 9 – Paper (10) 04: Institute of Professional Willwriters' application under s24 of the Act

29. The Director of Strategy and Research introduced a Paper about the Institute of Professional Willwriters' (IPW) request for LSB to hold an investigation into making 'will or other testamentary writing' a reserved legal activity under s24 of the Act.
30. The Board agreed with the Executive's recommendations as set out in the Paper, in particular to decline the request pending the development of an approach and methodology in respect of s24 (and s26) of the Act.

The Board resolved:

- a) to decline IPW's request for LSB to hold an investigation into making 'will or other testamentary writing' a reserved legal activity under s24 of the Act; and
- b) to publish a note setting out LSB's current position in respect of s24 and s26 of the Act, as set out in the Paper.

Item 10 – Paper (10) 05: Q3 performance report: October – December 2009

31. Julie Myers (Director of Corporate Affairs) introduced the report of performance in Q3 of 2009/10 against the Business Plan, which also included the draft submission to MoJ.
32. The Board noted the new format of the performance report, which was a second output of the new integrated project and risk management process. The Executive would continue to develop the format of the report, in addition to identifying an appropriate model for reporting on performance to stakeholders.
33. The Board agreed that the 'RAG status' of individual workstreams should be subject to considerable challenge by the Executive. It was agreed also to review the approach to reporting on 'RAG mitigations'.

The Board resolved:

- a) to note the draft Q3 performance report; and
- b) to agree to its use as a basis for discussion with MoJ.

Item 11 – Paper (10) 06: Finance report: December 2009

34. The Director of Finance and Services introduced the Finance report.

The Board resolved to note the Finance report.

Item 12 – The Legal Services Act 2007 (Levy) Rules 2010 ('the Rules')

35. The Board noted that the Rules codified the scheme (approved in outline by the Board on 3 September 2009) for recovering by way of a transitional levy on the ARs the set up costs of LSB and OLC and the operation costs of LSB from January to March 2010.
36. The Board Members present agreed and signed the Rules, which would be submitted for consent to the Lord Chancellor.

The Board resolved to agree and to sign The Legal Services Act 2007 (Levy) Rules 2010.

Item 13 – Any other business

Private session of the Board

37. The Board discussed in a private session a range of topics, including:
 - the Chairman's proposals to MoJ in respect of the appointment of a successor to Rosemary Martin and Mike Napier;

- management developments following the SMT ‘away day’ and Board development discussions at the end of 2009;
- the Board Member annual review process for 2009 and professional development; and
- improvements in the quality and delivery of papers to the Board.

38. The Chairman, Terry Connor, Bill Moyes and Nicole Smith would attend the MoJ NDPB Non-Executive Directors’ meeting on 2 February.

Item 14 – Date of next meeting

39. The Board would next meet on 22 February 2010, 9.30am-1.30pm. The venue would be LSB’s offices at Victoria House, Southampton Row, London WC1B 4AD.

BH 02.02.10

Signed as an accurate record of the meeting

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Date

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