

To:	Board	
Date of Meeting:	22 February 2010	Item: Paper (10) 13

Title:	Consultation on Levy Rules – operational costs	
Workstream(s):	6 – the Levy	
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Status:	Protect – policy development	

Summary:

The Board is asked to review this early **draft** version of the consultation paper on the levy to apportion and collect LSB's and Office for Legal Complaints' (OLC) operational costs and agree the key policy decisions in it. We would like to publish the consultation paper by mid-March 2010, in accordance with our commitment to the Approved Regulators (AR).


The Board is also asked to delegate authority to approve the final consultation paper to the Chairman and the Chief Executive.

The framework and content of the consultation paper is similar to the framework used for the April 2009 consultation paper for the levy to apportion and collect LSB's and OLC's establishment costs.

Ministry of Justice is keen for the consultation process to be finalised as soon as possible.

OLC has been sent this early draft version of the consultation paper but has not yet had a chance to provide comment. We will incorporate OLC's comments into the final version of the consultation paper and will update the Board if any views are received before the meeting.

Risks and mitigations

Financial:	The levy will be the source of funding for LSB and OLC on an ongoing basis and the rules need to be clear and accepted by ARs and approved by the Lord Chancellor.
FoIA:	Exempt – policy development.
Legal:	None. 
Reputational:	Legal Services Act 2007 requires that the rules be consistent with 'fair principles', which we have defined as being: proportionate, targeted, consistent, transparent. This consultation builds on the outcome of the previous consultation on the establishment costs.
Resource:	N/A.

Consultation	Yes	No	Who / why?
Board Members:		✓	
Consumer Panel:	✓		Steve Brooker, Consumer Panel Manager.
Others:			

Recommendation(s):

The Board is invited to agree:

- (1) the policy directions proposed in the draft version of the consultation paper;
- (2) the preferred option for the apportionment of the levy [REDACTED]
- (3) to delegate authority to approve the final consultation paper to the Chairman and the Chief Executive;
- (4) the requirement to prepare a Statutory Instrument that would only be amended should there be any significant changes to the levy arrangements; and
- (5) the basic timetable proposed in the consultation paper.

LEGAL SERVICES BOARD

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Consultation on Levy Rules – operational costs

Executive Summary

Recommendation(s)

The Board is invited to agree:

- (1) the policy directions proposed in the draft version of the consultation paper;
- (2) the preferred option for the apportionment of the levy [REDACTED]
- (3) to delegate authority to approve the final consultation paper to the Chairman and the Chief Executive;
- (4) the requirement to prepare a Statutory Instrument that would only be amended should there be any significant changes to the levy arrangements; and
- (5) the basic timetable proposed in the consultation paper.

Background / context

1. Part 7 (sections 173-175) of Legal Services Act 2007 (**'the Act'**) defines the scope of the levy. The Act allows for different parts of the levy to be payable at different rates. LSB will need to make rules for all leviable expenditure, as defined in the Act, which includes relevant expenditure made by LSB, Office for Legal Complaints (**OLC**) and the Lord Chancellor in respect to both implementation and ongoing operational costs.
2. LSB is required to consult the Approved Regulators (**AR**), amongst other stakeholders, before making the levy rules, and the consent of the Lord Chancellor is also required. To meet these requirements, and to ensure that LSB has control of its own finances, it is critical that the Board has a clear set of principles for how it will apportion the levy between different ARs.
3. The **draft** consultation paper at **Annex A** sets out the proposals for the methodology to calculate and collect the operational costs from 1 April 2010 for LSB and from when OLC becomes fully operational during 2010 and onwards.
4. By way of background, on 9 April 2009 we published a consultation paper on a proposed methodology for the apportionment of all leviable expenditure for the establishment of LSB and OLC, and the operational costs of LSB until the end of March 2010. A Statutory Instrument, The Legal Services Act 2007 (Levy) Rules

2010, came into effect on 15 February 2010 to give authority to LSB to collect the leviable establishment expenditure from the ARs.

Operational costs

- 5. [Redacted]
- 6. [Redacted]
 - [Redacted]
 - [Redacted]
- 7. [Redacted]
- 8. [Redacted]
- 9. [Redacted]
- 10. [Redacted]
- 11. [Redacted]

Additional proposals

12.

[REDACTED]

- [REDACTED]
- [REDACTED]

13.

[REDACTED]

Drafting of the Statutory Instrument

14. As collecting the levy will become an annual operational activity, we do not think it is necessary to make a new Statutory Instrument each year. Therefore, it is proposed that the Statutory Instrument for the levy should be drafted in such a way as to allow us only to amend it should we significantly alter the levy arrangements.

Consultation with Ministry of Justice (MoJ) and HM Treasury (HMT)

15. Following a request from MoJ and HMT, we will provide them with the opportunity to comment on the consultation paper and regulatory impact assessment (RIA) before they are published.

16. [REDACTED] we do not expect MoJ or HMT to have any significant concerns regarding the consultation paper and RIA. [REDACTED]

Consultation timeline

17. The following table is a high-level summary of the consultation timeline.

Timeline	Engagement
Mid-March 2010	Launch consultation. Publish consultation document (and an executive summary) on our website and send consultation paper to stakeholder organisations.

Late March to early April 2010	Meetings with stakeholders about our proposals.
Mid-June 2010	End of formal consultation period – deadline for written submissions from stakeholders.
Late July 2010	Publication of consultation response summary, LSB response and final draft Statutory Instrument for the consultation under Section 205 of the Act.
Mid-September to mid-October 2010	LSB submission to the Lord Chancellor on the proposed rules. Levy rules laid before Parliament as a statutory instrument (21 days).
By 28 February 2011	Levy collected.

15.02.10