

<b>To:</b>	Board	
<b>Date of Meeting:</b>	24 March 2010	<b>Item:</b> Paper (10) 17

<b>Title:</b>	Chief Executive's progress report: March 2010	
<b>Workstream(s):</b>	All	
<b>Author / presented by:</b>	Chris Kenny, Chief Executive chris.kenny@legalservicesboard.org.uk / 020 7271 0057	
<b>Status:</b>	Restricted	

<b>Summary:</b>
<p>The paper updates Board Members about:</p> <ul style="list-style-type: none"> <li>• staffing and governance issues;</li> <li>• progress on the key project areas, by way of a new performance report;</li> <li>• other internal and external policy developments; and</li> <li>• stakeholder and communications activities and forthcoming meetings.</li> </ul>

<b>Risks and mitigations</b> (Covered in assessments of project progress)	
<b>Financial:</b>	N/A
<b>FoIA:</b>	N/A
<b>Legal:</b>	N/A
<b>Reputational:</b>	N/A
<b>Resource:</b>	N/A

Consultation	Yes	No	Who / why?
<b>Board Members:</b>		✓	N / A – routine update and personal commentary.
<b>Consumer Panel:</b>		✓	
<b>Others:</b>			

<b>Recommendation:</b>
<p>The Board is invited:</p> <ol style="list-style-type: none"> <li>a) to note the Chief Executive's progress report; and</li> <li>b) to agree to delegate authority to approve the BSB's public access rule approval application to the Chief Executive (para 23).</li> </ol>

## LEGAL SERVICES BOARD

<b>To:</b>	Board		
<b>Date of Meeting:</b>	24 March 2010	<b>Item:</b>	Paper (10) 17

### Chief Executive's progress report: March 2010

#### Recommendation

The Board is invited:

- a) to note the Chief Executive's progress report; and
- b) to agree to delegate authority to approve BSB's public access rule approval application to the Chief Executive (para 23).

#### Operations and governance issues

##### Staffing

1. In the past month, we have welcomed:

Karen Marchant	Corporate Affairs Associate
Dawn Reid	Regulatory Project Manager
Luke Mcinerney	Regulatory Associate
James Meyrick	Regulatory Project Manager.

2. We await the arrival on 5 April of:

Nick Glocking	Legal Advisor
Michael Stacey	Regulatory Project Manager.

3. We will decide shortly whether / how to fill the vacant Research Associate post, but we have no further plans for recruitment.

##### Organisation development and governance

4. After a competitive tender process, we have appointed Deminos to provide an outsourced HR function for the LSB from 12 March. The services provided will include audit and ongoing maintenance of all HR policies, 24-hour telephone advice for line managers and a 'managers' manual'. The contract also includes provisions for support and representation for any disputes that lead to an employment tribunal, including cost cover for any tribunal award as well as the costs of representation.

5. 

6. Work has begun on the training needs analysis and I will update the Board about progress at the meeting.
7. Board Members will be pleased to know that our Health and Safety Group has met for the first time, agreeing its terms of reference and reviewing the organisation's risk assessment.
8. Bryan Hislop (Board Secretary) will now present a suite of new governance documents to the Board on 27 April. This will include reviewed terms of reference for the Audit and Risk and the Remuneration and Nomination Committees, and a scheme of delegations and schedule of reserved matters.
9. Discussion continues with Ministry of Justice (**MoJ**) about revisions to our Framework Agreement. We are reviewing MoJ's comments about the draft and we expect to be in a position to respond by 24 March. I will update the Board at the meeting.

### **Business Plan 2010/11 and Single Equality Scheme**

10. The consultations on the draft Business plan 2010/11 and the Equality scheme respectively closed on 5 and 10 March (see **Papers (10) 23** and **24**).

### **Project update**

#### **Project progress report**

11. The monthly progress report is attached at **Annex A**. I will update the Board about significant developments at the meeting, notably the need for some fresh thinking around regulatory reviews in the light of the disappointing performance of consultants in the tender process.
12. A number of workstreams are now coming to an end. Projects such as Rule changes and Designation as an Approved Regulator (**AR**) are now settling into 'business as usual'; and, for other projects, further planning, based on the projects outlined in the Business plan, will be underway during March – May.
13. An organisational Project Management Methodology, designed collaboratively with Project Managers and in liaison with Senior Management Team, will be implemented from April. For projects that are already underway, Project Managers will be asked to develop new Project Initiation Documents (**PID**), to ensure that there is clear understanding and agreement about the objectives for 2010/11, that the communications, legal and research aspects of the work have been considered and planned, and that associated risks have been noted. Project Managers will also be asked to produce a new project plan, which will be incorporated into an overarching plan. This will be completed by the end of April.
14. Any new projects will need to be fully scoped before more detailed planning is undertaken. The responsible Project Managers will therefore produce a strategic level Project Brief by the end of April and a subsequent PID and plan by the end of May.

### **Alternative Business Structures (ABS)**

15. A paper inviting the Board's approval of the guidance to Licensing Authorities about the content of Licensing Rules is presented to this meeting (**Paper (10) 18**).
16. Discussions continue with the Solicitors Regulation Authority (**SRA**) and MoJ about early commencement of Schedule 10 and its relationship to our work on the use of s69 of the Legal Services Act 2007. I hope to update the Board at the meeting.

### **The Levy**

17. MoJ and HM Treasury are reviewing the 'work in progress' draft of the consultation document on the policy approach to the operating costs Levy (which was presented to the last meeting of the Board). We are waiting for their feedback. The final consultation document is scheduled for publication by the end of March.
18. The Statutory Instrument to secure re-payment of the set-up costs, signed by the Board in January, successfully passed through the Merits Committee on 2 March.

### **Research**

19. During the last month, we held the first colleague seminars to discuss emerging findings from the small business research and the Consumer Panel's referral arrangements research. Colleagues from MoJ and Office of Fair Trading attended the presentation on referral arrangements as part of our ongoing engagement with stakeholders. Work continues in respect of the diversity research and the economic study of referral arrangements.
20. The first meeting of the Research Strategy Group was held on 15 March and it provided a valuable opportunity to test the Research Strategy with both academic and AR stakeholders. Our plans stood up well to challenging scrutiny, but we have some helpful points to reflect on in deciding final presentation and positioning.
21. Over the next month, we will publish the Research strategy and the Research plan for 2010/11 (agreed by the Board at the last meeting), and the small business research.

### **Rule approval applications**

22. Bar Standards Board's (**BSB**) application for rule changes to enable barristers to take part in Legal Disciplinary Partnerships has proved more controversial in policy terms and more time consuming in process terms than we had initially hoped. I will update the Board at the meeting about the current state of play and I will also cover our emerging thinking on lessons learned.

23. The 'rules approval pipeline' paper presented to the Board in January suggested that BSB's public access application would require Board approval. We have since received the application from BSB and we will be considering it alongside its application for approval of the changes to the structure of self-employed practice, which makes reference to the public access rules. Following an extension of the initial decision period for the self-employed structure application, decisions on both applications will need to be made by 1 April. Given the need to move quickly and our initial assessment that the applications do not appear to present any policy issues of major significance to require Board approval, I recommend instead that both applications are approved at Chief Executive level. This is consistent with the delegation of powers authorised by the Board on 30 November. David Wolfe and Barbara Saunders (Board Members) will continue to be involved at a working level with all three of BSB's current applications.
24. A re-prioritisation of applications going to the Board was also necessary following the receipt of two applications that we had not anticipated and which we consider to be significant. The first is the application from the SRA for approval of its Disciplinary Procedure Rules, which will enable the SRA to exercise its new powers to give written rebukes and / or impose a penalty of up to £2,000 where there is a breach of regulatory obligations or professional misconduct. The major issue with this application is the SRA's proposal to use the civil standard of proof, to which both Solicitors Disciplinary Tribunal (**SDT**) and The Law Society have raised concerns. The second is an application from Institute of Legal Executives (**ILEX**) Professional Standards Board for approval of its new outcomes-based code. These applications will be presented for approval to the Board on 27 April.

#### **Institute of Chartered Accountants in England and Wales (ICAEW)**

25. We have not yet received the anticipated application from ICAEW to become an AR in respect of probate activity. ICAEW continues to lobby for use of an order under s69 to grant them AR status, which both we and MoJ agree is not appropriate.

#### **SDT memorandum of understanding (MoU)**

26. Colleagues have been working with The Law Society and SDT to prepare a MoU in respect of SDT's annual budget process. The Law Society and SDT have been cooperative and it is likely that the MoU will be finalised by the month's end. An update will be included in my report to the next meeting.

#### **Broader policy developments**

##### **Jackson Review of Civil Litigation Costs**

27. LSB's response to the Review is presented to this meeting (**Paper (10) 19**).

### **Unleashing Aspiration**

28. There are a range of meetings in the ten days leading up to the Board about the post-Milburn Report project. I will update the Board at the meeting.


### **Quality Assurance for Advocates (QAA)**

29. The Joint Advocacy Group (**JAG**) met on 2 March. The progress and cohesion is good and, usefully, Thomas LJ remains enthusiastic about what LSB involvement has achieved in galvanising the delivery process. We hosted a very positive roundtable meeting with the wider stakeholder group on 15 March, which: noted good progress by the JAG to date; agreed an approach to the JAG engaging with ARs over the 2-3 month period up to the June consultation; commissioned the Legal Services Commission (**LSC**) to explore the views of the junior family courts about extending the scheme to family work, following a productive meeting with Sir Mark Potter; and agreed that we would begin to develop a discussion paper on the criteria for wider extension of quality assurance.

### **Legal Ombudsman (LeO)**

30. Board Members will be aware that the declaratory hearing in The Law Society's legal action against MoJ and LeO found against The Law Society (i.e. that TUPE does not apply). The judgment represented a comprehensive endorsement of the LeO position. In the same week as the court decision, LeO obtained a decision from MoJ's Access to Justice Investment Committee that allows them not to use MoJ's shared service for IT provision. LeO has now also signed the lease for the office accommodation at Baskerville House, Birmingham.
31. Adam Sampson (Chief Ombudsman) and I spoke at a Legal Complaints Service (**LCS**) all-staff meeting in Leamington on 8 March. We were well received. The focus of LeO activity now is on phasing the recruitment of staff to ensure an orderly build up. We are working with them and with MoJ on appropriate regulatory management of the LCS to ensure that consumers suffer no detriment in the close-down of the LCS and the start-up of LeO.

### **Consumer Panel**

32. The Panel met on 10 March and received presentations from LeO and the Office of the Legal Services Complaints Commissioner/Legal Services Ombudsman. Members also received an overview of the findings from consumer research into attitudes about referral arrangements.
33. A paper about the Panel's work programme for 2010/11 is presented to this meeting (**Paper (10) 21**).
34. 

## **Public Affairs and Communications Issues**

### **Public affairs**

35. This month has been a busy one across all strands of communications work. On political communications, we have kept up levels of engagement with Shadow Ministers, including a positive meeting about the next stages of the reform programme with Dominic Grieve QC MP (Shadow Secretary of State for Justice) and Henry Bellingham MP (Shadow Minister for Justice). This was followed by another briefing session with Jonathan Djanogly MP (Shadow Solicitor General). We also briefed John Penrose MP (Minister for Business, Enterprise and Regulatory Reform) about the lessons that might be learned from the model of oversight regulation in the legal services sector, as well as routes to embedding new consumer protections.
36. Keeping up our presence in Wales, we visited the Assembly to provide a briefing on the reform programme to the new Counsel General, John Griffiths AM. We have much in common on workforce and diversity issues. To follow up, we are planning a Welsh Open Forum event to be held in Cardiff on the evening of 12 May, which the Counsel General plans to attend.
37. Events have also provided opportunities for engagement. The Chairman spoke alongside Nicholas Green QC (Chairman of The Bar Council) and Robert Heslett (President of The Law Society) at the recent meeting of the All-Party Parliamentary Group on Legal and Constitutional Affairs. This provided an opportunity to update Parliamentarians about progress made since the activation of the new regulatory regime, as well as to set out next steps on governance, complaints-handling and alternative business structures (**ABS**).
38. Alongside this, David acted as a keynote speaker at MoJ's launch of its new NatCen consumer research. This also doubled as the celebration of Bridget Prentice MP's (Parliamentary Under-Secretary of State for Justice) stewardship of the reform programme now that she is stepping down.

### **Media**

39. The announcement of the timetable for ABS was press released and achieved coverage in each of the main trade press publications. We also featured in the Local Government Lawyer and Trainee Solicitor magazines.
40. In addition, my chairmanship of the sub-group of the Gateways to the Professions Forum has also been reported widely – usefully reinforcing our credentials for cross-sector leadership on workforce issues.

### **Stakeholder engagement and the external environment**

41. The next in the series of direct consultation events in the regions was held in Bristol. Speaking on the panel alongside the Chairman and I were Mark Humphries (SRA Board Member), Nicholas Green QC and Robin Tolson QC (Leader of the Western Circuit). This event drew a record audience of 140 guests. Preceding the event, the Chairman undertook a tour of four local sets of

chambers, whilst Barbara Saunders and I met two regional law firms: Veale Wasbrough Vizards and Henrique Griffiths.

42. Alongside our own events, Senior Management Team has been keeping up a keynote speaker presence at major stakeholder conferences. Late in February, I addressed an audience of 100 chambers practice managers at an event organised by the Legal Practice Management Association. The major focus for this speech was quality assurance for advocacy, alongside some points on the workforce. I also addressed the ILEX Annual Conference as part of a panel discussion focusing on ABS, governance and the impact of the new regulatory framework. In the last week, I addressed an audience of in-house lawyers at the Practical Law Forum, whilst Fran Gillon (Director of Regulatory Practice) spoke about ABS at The Lawyer's Strategic Risk Management conference.
43. Earlier this month, we provided an article for the Local Government Lawyer Network, which reaches 6,000 lawyers working in local authorities across England and Wales.
44. Inevitably, our activities received less attention than developments at the LSC, which Government announced would lose its policy making functions and become an executive agency as soon as primary legislation permitted. There are no direct implications for LSB, but the Board may wish to spend a little time considering the extent to which this and the review of arms-length bodies that we expect to be confirmed before the meeting may alter our operating environment.

#### **Meetings – backward and forward look**

45. The Chairman's meetings etc during the past month included:

- Dominic Grieve QC MP and Henry Bellingham MP – 24 February
- Thomas LJ (re QAA) – 25 February
- Legal Practice Management Association Conference – 26 February
- John Penrose MP – 1 March
- Natcen / Ministerial seminar and reception – 1 March
- APPG for Legal and Constitutional Affairs – 1 March
- Anna Bradley (Chair, CLC) – 8 March
- Open Forum (Bristol) – 10 March.

46. My meetings etc during the past month included:

- Lyceum Capital (re ABS) – 24 February
- BSB (re LDP rule change application) – 24 February
- Dominic Grieve QC MP and Henry Bellingham MP – 24 February
- Thomas LJ (re QAA) – 25 February
- CBI (re Business Plan 2010/11) – 26 February
- John Penrose MP – 1 March
- Natcen / Ministerial seminar and reception – 1 March
- APPG for Legal and Constitutional Affairs – 1 March
- BSB and SRA (re QAA) – 2 March
- The Bar Council (re IGRs and Practice Fees) – 2 March



- Legal Complaints Service – 8 March
- John Griffiths AM (Counsel General) – 10 March
- Open Forum (Bristol) – 10 March
- ILEX National Conference – 11 March
- University of East Anglia – 12 March
- LSB Research Strategy Group – 15 March
- QAA roundtable – 15 March
- Gateways to the Professional Collaborative Forum – 16 March
- PLC Law Department Forum – 18 March
- BSB (re QAA) – 22 March.

47. The Chairman's meetings etc over the coming month include:

- Association of Partnership Practitioners AGM – 25 March.

48. My meetings etc over the coming month include:

- The Law Society Easter Reception – 24 March
- Association of Partnership Practitioners AGM – 25 March
- Legal Services (Scotland) Bill team – 29 March
- Diversity Forum of Professional Regulators – 15 April
- ICAEW Conference – 21 April.

16.03.10