



To:	Board		
Date of Meeting:	27 April 2010	Item:	Paper (10) 28

Title:	Chief Executive's progress report: April 2010
Workstream(s):	All
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Status:	Restricted

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

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

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

Recommendation:
The Board is invited to note the Chief Executive's progress report.

LEGAL SERVICES BOARD

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Chief Executive's progress report: April 2010

Recommendation

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

Operations and governance issues

Staffing

1. In the past month, we have welcomed:

Nick Glockling	Legal Advisor
Michael Stacey	Regulatory Project Manager.

2. [REDACTED]

Organisation development and governance

3. [REDACTED]

[REDACTED] Deminos is now providing outsourced support for line managers and HR advice, Beata Dawidczyk (Office Services Coordinator) an HR administration service, and Julie Myers (Corporate Director), supported by Edwin Josephs (Director of Finance and Services), has overall responsibility for the HR function. Deminos has provided a briefing for line managers about its service, the implementation and use of which will be monitored over the coming months.

4. Our contractor, Ian Forsyth, has now completed our organisational training needs analysis and he has provided a proposal for an all-colleague 'away-day'. The report has been considered by SMT and the Corporate Director has been tasked with developing an implementation plan, which will require short-term contractor support to develop and to source our training requirements.
5. On 29 April, the Chairman and I will meet for the first time Helen Edwards, the new Director General of the Criminal Justice Group at Ministry of Justice (**MoJ**), who has replaced Peter Handcock as our senior sponsor. We have heard no more about cross-Whitehall reviews of arms-length bodies, but we have made a direct offer to engage to Jonathan Slater (Director General, Business Transformation at MoJ), who is leading the MoJ component of the review and has made a polite response. Matters relating to performance reporting and

sponsorship oversight by MoJ are covered at **Paper (10) 32**.

Business plan 2010/11 and Equality scheme 2010/11

6. Further to the discussion at the last meeting, we were able to produce and to publish the post-consultation Business plan 2010/11 on 6 April (i.e. pre-'purdah'). The Equality scheme 2010/11 will be published shortly after the election.

The Levy

7. Approved Regulators (**AR**) are considering draft memoranda of understanding with LSB and demands for payment are likely to be issued before the end of April 2010.
8. There is no separate finance report this month as the year end exercise is underway. The Director of Finance will update the Board at the meeting.

Project update

Project performance report

9. The monthly performance report is attached at **Annex B**. Board colleagues should note in particular:
 - the proposed dropping of the idea of a workforce strategy (**Annex A**);
 - the work to underpin the submission of finalised internal governance arrangements from ARs;
 - the successful rule approval activity;
 - the progress in respect of first-tier complaints handling; and
 - the continued need to re-focus activity in respect of regulatory reviews.
10. As colleagues will recall from my report to the last meeting, Project Managers are developing new Project Initiation Documents (**PID**), for both current and new projects, to deliver the work of the Business plan 2010/11. These will be discussed by SMT during April and May, and any significant developments will be reported to the Board.
11. The reporting of project progress will also be reviewed during April and May, covering the monthly progress reports to the Programme Board, the performance reports to the Board, and the quarterly reports to MoJ.

Alternative Business Structures (ABS)

12. Our guidance to Licensing Authorities (**LA**) on the content of licensing rules was published on 26 March. After our success in persuading Ministers to accelerate the existing timetable, two major parts of Legal Services Act 2007 (**'the Act'**) for ABS – Schedule 10 (designation of ARs as LAs) and Schedule 11 (licensing rules) – have now been commenced, along with some other sections.

13. Further discussions have taken place with the Tribunal Service about the process for designation as an appellate body. This work will be taken forward by Michael Stacey (Regulatory Project Manager).
14. Colleagues met Solicitors Regulation Authority (**SRA**) and MoJ on 30 March to discuss timing issues in relation to SRA's application to become an LA. It was agreed that an application could be made up to March 2011 (allowing designation before the summer recess that year), which would still enable ABS 'go live' in October 2011. The discussion focused on MoJ officials' desire to have a final set of licensing rules, and our more pragmatic view that some changes are inevitable.
15. We have organised a half-day workshop with SRA on 23 April to discuss an appropriate approach to s69 Orders, prior to a tri-partite discussion with The Law Society. Key issues for SRA are the alignment of its powers for enforcement, financial penalties (size and the ability for them to be used automatically as administrative penalties), and the provision of compensation arrangements. We will report on the outcome at the meeting.

Research

16. During the last month, we have received the first draft report of the economic study of referral fees as well as an initial briefing about the emerging results from the diversity research. On 21 April, Dr Christopher Hodges from the Centre for Socio-Legal Studies will be leading a seminar about his research on the foundation for a 21st Century Justice System. We have also agreed the line up for a conference on 14 June to launch our compendium of articles about the future of legal services – Nicole Smith (Board Member) is chairing the event, and speakers will include Julia Black (LSE), Tony Williams (Jomati), Mari Sako (Said Business School) and Pascoe Pleasance (UCL).
17. Over the coming month, we will launch the small business research (11 May) and the referral fees research (25 May). We are also hosting a seminar highlighting recent research from Lancaster and Leeds Metropolitan Universities on legal education and training. Board colleagues will be invited to these events.
18. Publication of the Research strategy and the Research plan for 2010/11 (agreed at the last meeting of the Board) and the small business research has been postponed until post-'purdah'.

Rule approval applications

19. The Board is invited at **Paper (10) 29** to determine:
 - SRA's application to approve new Disciplinary Procedure Rules; and
 - ILEX Professional Standards' application to approve a new outcomes-based Code of Conduct.
20. Since the last meeting (24 March), we have approved under delegated authority four rule change applications:

- On 26 March, we approved the Bar Standards Board's (**BSB**) application for approval of amendments to the Bar Code of Conduct in respect of Legal Disciplinary Practices (**LDP**) and Partnerships of Barristers. These changes will, subject to safeguards in the Code and guidance, lift existing restrictions to allow barristers to become managers or shareholders of LDPs and to practice in more than one capacity at the same time – in other words, part-time as a self-employed barrister within chambers and part-time as a barrister in an employed or managerial capacity;
- On 31 March, we approved two further applications from BSB. The first was for approval of amendments to the Bar Code of Conduct regarding the structure of self-employed practice, which will lift existing restrictions to allow self-employed barristers to share office premises and facilities with others (and entities controlled by them), subject to safeguards within the Code and guidance. The changes also allow self-employed barristers to investigate and collect evidence and take witness statements, to attend at police stations to advise suspects and interviewees and to conduct correspondence, provided that certain conditions are met. The second was for approval of alterations to the Public Access scheme, which widens the range of work available under the scheme to include Family, Criminal and Immigration work. On 1 April, the BSB announced all of the Code changes to be effective immediately;
- On 31 March, we approved also SRA's application for approval of amendments to the Qualified Lawyers Transfer Scheme (**QLTS**) Regulations. The new scheme will alter the criteria to determine which qualified lawyers admitted outside of England and Wales can apply for domestic qualified status through the fast-tracked transfer route, together with the outcomes and means by which applicants will be assessed. The Regulations seek to bring parity between the QLTS Regulations and the domestic qualification route, addressing current inconsistencies between the two sets of requirements. SRA plans to introduce the new Regulations from January 2011 and it is currently completing the tender for a single assessment provider (which was run concurrently to submitting the application to us).

Institute of Chartered Accountants in England and Wales (ICAEW)

21. We have not yet received the anticipated application from ICAEW to become an AR in respect of probate activity. However, we continue to engage with ICAEW, with Fran Gillon (Director of Regulatory Practice) and I speaking respectively at recent conferences in London and Manchester.

SDT memorandum of understanding (MoU)

22. Colleagues have been working with The Law Society and Solicitors Disciplinary Tribunal (**SDT**) to prepare an MoU in respect of SDT's annual budget process. The process has at times been difficult, but progress is being made. The Chairman has written to the Presidents of SDT and The Law Society seeking their approval of the MoU. I will update the Board at the next meeting.

Broader policy developments

Jackson Review of Civil Litigation Costs

23. The election campaign has led to some dissipation of the momentum of the (public) development work on the Jackson Review, but we remain on target to present a paper to the meeting of the Board on 29 June. Ahead of that, we expect the Consumer Panel to publish on 26 May its advice to us in respect of referral fees, and to be in a position to publish shortly beforehand the research of our own economic consultants, Charles River Associates.

Quality Assurance for Advocates (QAA)

24. We hosted a roundtable of interested parties on 15 March. It was positive in that the questioning voices of those not on the Joint Advocacy Group (**JAG**) have quietened. The focus on maintaining momentum on the credible delivery of a criminal scheme seems to have been accepted. JAG has agreed a July 2011 deadline for the delivery of the criminal scheme. A consultation will be published in July, alongside a near final view of what the scheme is expected to look like. JAG will hold a workshop in May about the consultation. I will update the Board about the most recent meeting of JAG.
25. We continue to make progress in discussions with Legal Services Commission (**LSC**) and MoJ in respect of maintaining pressure for progress through legal aid contracting as well as regulatory requirements.
26. The next LSB roundtable will be in the summer, covering: an overview of the scheme for consultation; consideration of QAA for family law (LSC to flesh out views on family QAA in the interim); and the scope of quality assurance (LSB to develop a 'straw man' overview of what this could cover).

Legal Ombudsman (LeO)

27. LeO is now in recruitment mode, with two recent 'open days' attracting c.600 interested individuals. LSB and MoJ are now both committed to turning critical attention to developing the performance framework for LeO, to ensure that appropriate service standards and arrangements for performance oversight are in place prior to LeO opening in October. Meetings are scheduled in the week before the meeting of the Board at both Chief Executive level to involve MoJ and between respective Chairs and Chief Executives. I will update the Board at the meeting.
28. At the time of writing, we have been made aware of a request from MoJ to the Consumer Panel to join MoJ's Closure Project Board (which is overseeing the transitional arrangements around the Office of the Legal Services Ombudsman). We were surprised not to be included in this correspondence – which also makes reference to arrangements for LSB oversight of complaints handling until the opening of LeO. My strong contention is that for us to perform our role – the role that MoJ is urging us to play – we need to be a party to all significant aspects of complaints handling arrangements.

Consumer Panel

29. The Panel published its Work programme for 2010/11, as endorsed by the Board at the last meeting, on 30 March.
30. As part of the feedback on LSB's Q3 performance report, MoJ indicated that it expects to see reporting of the Panel's work. We have agreed with the Panel that this will be done by way of a quarterly report to the Board, for passing on to MoJ. Board Members will see the first example of this at **Paper (10) 32**.

Public Affairs and Communications Issues

31. We have transferred focus during the pre-election period from media and public affairs work onto strengthening internal processes on communications. This has included exploring how to use internal tools to improve colleagues' ability to communicate with stakeholders and beginning discussions on the evaluation of our web offer. Project Managers are also working with the Media and Public Affairs Manager to schedule by way of the PIDs the outward-facing elements of projects for 2010/11. This will enable us to line up vehicles for announcements, which will help us to convey our messages to stakeholders in the most coherent way.
32. Alongside this, internal discussions have taken place about the post-election re-mapping of political stakeholders, and an approach to briefing incoming Ministers and MPs is being developed. We will update on possible pre- and post-election events at the meeting.
33. Additionally, we are planning the handling of communications around the referral fees strand of work.
34. Our rate of attendance on speaking platforms continues to be high. The Chairman delivered an after-dinner speech at the Association of Partnership Practitioners annual event, which concentrated on ABS, new business opportunities and new models of ownership. Meanwhile, the Director of Regulatory Practice has addressed audiences at the ICAEW annual event, the ALCD conference and the Strategic Risk Management Conference staged by The Lawyer magazine. These focused on regulating entities, ABS and outcome-focused regulation.

External environment

35. SRA and The Law Society have continued to engage us closely in contingency planning related to Quinn Insurance being placed in administration. A meeting is being planned to involve financial stakeholders, as well as legal regulators. SRA's advice remains clear that Irish events are not currently caught by the definition of an 'insolvency event' and, therefore, mass transfers do not need to be initiated. Contingency planning is, however, underway.

Meetings – backward and forward look

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

- Association of Partnership Practitioners AGM – 25 March
- Caroline Pickering (SDT) – 19 April
- Ruth Deech (Chair, BSB) – 22 April
- Elizabeth France and Adam Sampson (Chief Executive and Chair, LeO) – 26 April.

37. My meetings etc during the past month included:

- Deborah Evans (Legal Complaints Service (LCS)) – 24 March
- Mark McLaren (Which?) – 26 March
- Legal Services (Scotland) Bill team – 29 March
- The Law Society and SDT (re rule change application) – 31 March
- Mandie Lavin (Director, BSB) – 7 April
- Carolyn Downs (Interim Chief Executive, LSC) – 14 April
- Diversity Forum of Profession Regulators – 15 April
- LeO Audit and Risk Committee – 15 April
- ICAEW conference – 21 April
- Legal Services Forum 2010 – 22 April
- LSB induction for Council for Licensed Conveyancers – 22 April
- SRA (re s69 of the Act) – 23 April
- Deborah Evans (LCS) – 23 April
- Tri-lateral: LSB, LeO and MoJ – 23 April
- Elizabeth France and Adam Sampson (Chief Executive and Chair, LeO) – 26 April.

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

- Helen Edwards (Director General – Justice Policy Group, MoJ) – 29 April
- SRA Board – 4 May
- Alan Kershaw and Ian Watson (Chairman and Chief Executive, ILEX Professional Standards) – 6 May
- Dianne Hayter (Chair, Legal Services Consumer Panel) – 10 May
- Open Forum (Cardiff) – 12 May
- Ruth Deech (Chair, BSB) – 17 May.

39. My meetings etc over the coming month include:

- David Pester and John Verry (TLT LLP) (re ABS) – 28 April
- Community Legal Advice helpline – 28 April
- Laura Janes (Young Legal Aid Lawyers) – 29 April
- Helen Edwards (Director General – Justice Policy Group, MoJ) – 29 April
- SRA Board – 4 May
- Alan Kershaw and Ian Watson (Chairman and Chief Executive, ILEX Professional Standards) – 6 May
- Des Hudson, The Law Society – 6 May
- College of Law Podcast – 12 May
- Open Forum (Cardiff) – 12 May

- British and Irish Ombudsman Association Conference – 14 May
- Said Business School, Oxford, Scenario Planning Exercise – 17-21 May
- Gateway to the Professions Sub Group 5 meeting – 19 May
- Sarah Albon (Justice Policy Group, MoJ) – 24 May
- Mike O'Connor (Chief Executive, Consumer Focus) – 26 May.

Workforce development strategic plan

1. We discussed a workforce development strategic framework with the Board on 30 November. That has helped to shape the priorities for this work area and our business planning.
2. At that stage, we were planning to develop the paper into a published strategic plan on workforce issues. However, we now consider that this may be an ineffective diversion of resources. A published strategic plan would add little benefit beyond the commitments set out in the Business plan and planned policy documents; moreover, we are making good progress in this area primarily by persuasion, effective relationship management and 'selling in'. A strategic document that encouraged theoretical debate rather than action may not be helpful in sustaining this momentum.
3. Our original intention of making a statement about our commitment to improving diversity has been achieved through the production of the Equality scheme, which will appear immediately after the election. We now want to build on this by working towards a clear public statement on transparency on diversity at firm level, in order to provide a baseline for measuring the success of diversity initiatives and measuring both firm and AR performance. We have presented initial proposals on what such a baseline might look like to ARs and received general support, albeit with some challenges on practicability. We aim to present a more developed paper about this work in June / July and to publish a framework in Q2, with progress against the aspirations that have been set reported on a quarterly basis thereafter. We will publish this alongside the finalised research from the Equality and Human Rights Commission about ARs' current activities in respect of diversity.
4. In terms of quality assurance, we are on course to deliver the package of deliverables to which the strategy would have aspired, with our expectations and outputs set out in the Business plan. Our first priority is quality assurance for advocates. We are making good progress in this area, with LSB having set the ownership structure of the first stage of the QAA scheme and controlling the debate on where it will best sit thereafter. We are on course for an early delivery of a criminal scheme and the scoping of how this may be developed in other areas of law will begin shortly. The Business plan also commits us to publish in Q3 a research report into what consumers understand about the range of assurance measures and titles provided by the different arms of the sector. The Consumer Panel has signalled a willingness to help in this area.
5. We have also made progress in respect of education and training. We have secured a place on the Skills for Justice governance board's Government-supported research into the skills of the legal workforce and how these may be developed to meet future needs. We have brought together a forum of legal educators to develop thinking about how education and training might change to reflect the needs of a changing market. SRA has recently committed to work with us to review broad questions about the solicitor qualification and specialisation, including whether training and qualifications could be better targeted to fit the area of work that will be undertaken and the risks presented to consumers in

doing so. We will progress this promising start through management of the relationship, which could lead to a more ambitious position than a strategy statement would have been able to support at this stage.

6. In short, therefore, we think that this 'slow burn' approach to pursuing the individual strands in the Business plan is more likely to lead to sustainable progress, rather than effectively re-packing the relevant elements into a single document. To the extent that we do need to do that, it might best be done in the context of thinking about overall strategy from 2012 onwards, as our focus more generally shifts from ABS, independence and complaints into a broader strategic context.

