

To:	Board	
Date of Meeting:	30 September 2010	Item: Paper (10) 60

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

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

Risks and mitigations (Covered in assessments of project progress)	
Financial:	N/A
FoIA:	Initial assessment of exempted text highlighted.
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: September 2010

Recommendation

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

Operations and governance issues

Recruitment

1. Recruitment is now underway for a new Non Lay Board Member. The campaign is being managed by Veredus and the closing date is 11 October. Final interviews are due to be held on 3 December.

Organisation development and governance

2. Work is well underway to implement an electronic document management system (**EDMS**). The EDMS has been purchased from Wisdom and the implementation project is being managed by Michelle Jacobs (Business Planning Associate). We will need to migrate our existing files to the new framework and colleagues will need to be trained to use the EDMS, which will better manage our corporate memory and the processing of data protection and freedom of information requests.

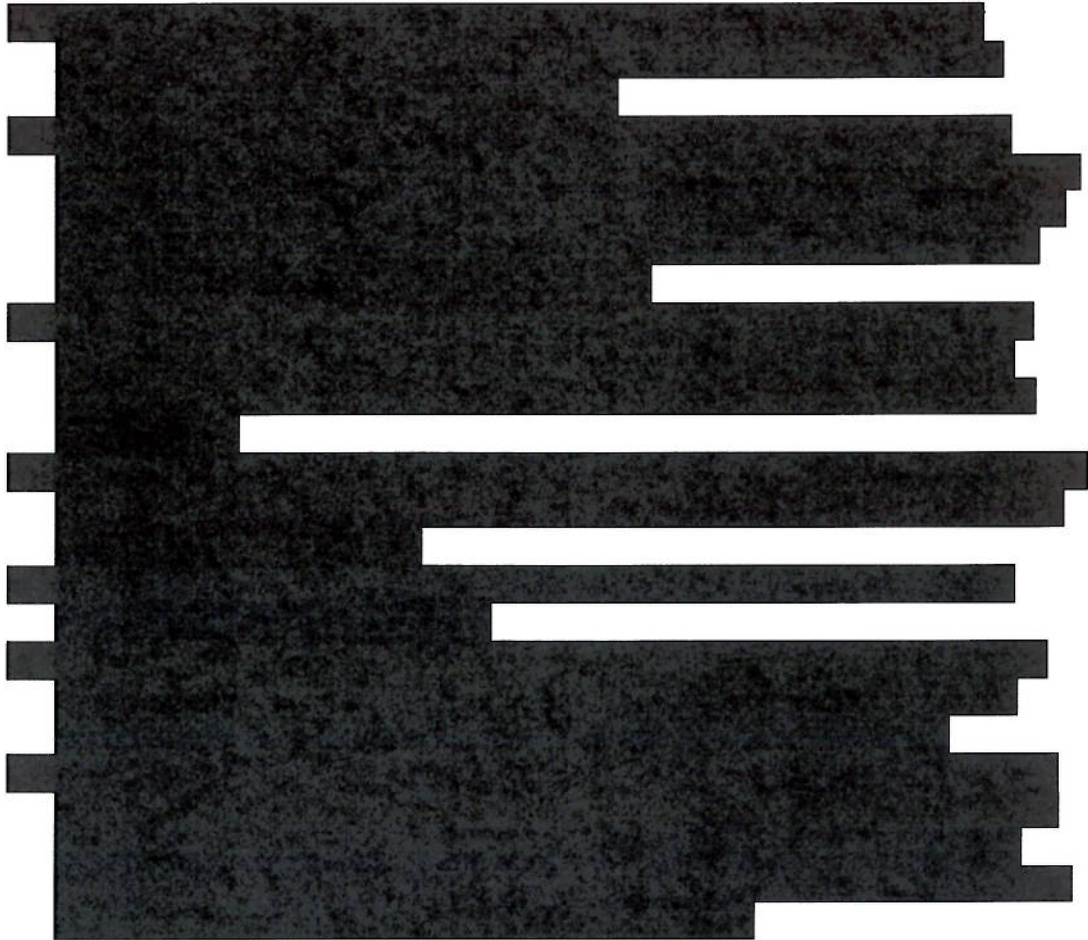
The Levy

3. We sent out notices of payment for the first instalments of the establishment costs of the Office for Legal Complaints (**OLC**) to The Bar Council, The Law Society and Council for Licensed Conveyancers (**CLC**) at the start of September. These will be fully paid before 30 September.
4. The consultation on the running costs levy is due to close on 29 September. To date, only The Law Society has asked to meet us to provide clarity on its understanding of our proposals and to gauge our reaction to some of its proposed comments. It is our intention to present a paper summarising the responses and inviting the Board to determine the relevant rules on 28 October.
5. We continue to enjoy positive conversations with the spending team at HM Treasury, which has confirmed that it is happy with our proposals.

Project update

Programme highlight report

6. The Programme highlight report is attached (**Annex A**). Progress is steady, however, colleagues should note in particular:



7. The new process for identifying and managing risks is embedding well. It is now significantly easier to identify the risks that need to be escalated to Senior Management Team and to aggregate individual project risks into programme risks. The revised Corporate Risk Management Strategy will be presented for review to Audit and Risk Committee on 11 October and for approval to the Board on 28 October.

Alternative Business Structures

8. In addition to the points in the Programme highlight report, colleagues should note the speech by Jonathan Djanogly MP (Parliamentary Under-Secretary of State, Ministry of Justice (**MoJ**)) on 22 September, circulated separately. This marks a significant milestone in clear public commitments to the programme by the new administration. While emphasising a number of statutory hurdles to be overcome, the Minister made clear commitment to both the principle and timetable of ABS, emphasising the competitive benefits for both consumers and firms of pursuing the agenda.

9. A paper setting out the LSB's rules on maximum financial penalties will be circulated for approval by correspondence to the Board. The proposals are in line with the consultation of November 2009 and the Board's decisions of March 2010. MoJ asked that these rules were not made until now to assist with its management of the parliamentary process.

Research

10. In the past month:

- Vanilla Research completed its report for the Legal Services Consumer Panel ('**the Panel**') about consumers' understanding of quality in legal services – the Panel is looking to publish the research later this year
- we advertised for academics who wish to work in collaboration with LSB in applying for Arts and Humanities Research Council funding for a doctoral student
- Crispin Passmore (Strategy Director), Alex Roy (Research Manager) and I attended the second and final Said Business School (University of Oxford) scenarios planning training course, which focussed on the future of the supply of legal services
- we analysed the initial data received from The Law Society about the location of solicitors, as part of our Regulatory Information Review.

11. Our focus over the coming month includes:

- Westminster University will host a conference about diversity on 13 October to launch our diversity research
- the Regulatory Policy Institute will complete its draft report about the economics of the legal market – a final report will not be available publicly until the publication of our consultation document in Q1 2011
- we will complete our initial review of the data and research evidence about legal services and our analysis of the supply side data received from the ARs.

Regulatory decisions

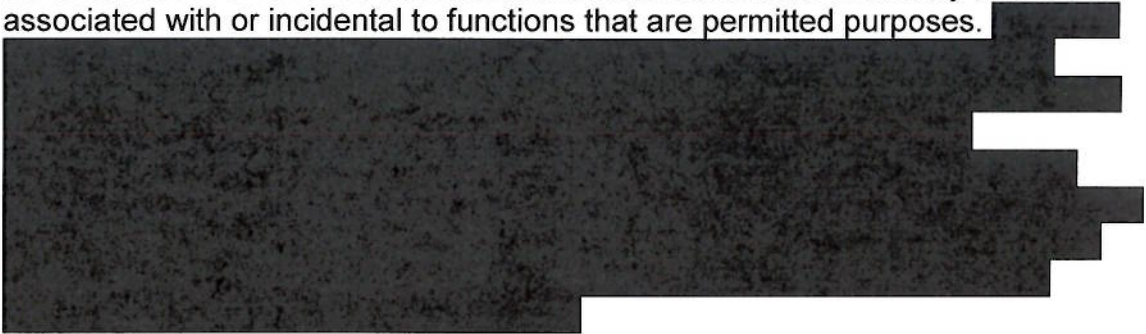
Rule approval applications

12. I approved the application from Solicitors Regulation Authority (**SRA**) on the Solicitors Indemnity Rules 2010 on 30 July.
13. Three new applications have been received since my last report. One of these (Amendments to the Bar training regulations) was subsequently withdrawn by Bar Standards Board (**BSB**), which decided to defer the amendments by a year so that it could be considered alongside other related changes. On 3 September, I approved an application from the Master of Faculties to change the rules to make continuing professional education compulsory for members. CLC submitted an application in relation to its fee structure on 31 August and this is currently being considered.

Exemption directions

14. Five Exemption Notices have been issued following an assessment of significance, impact and risk:
 - BSB's Hearings before the Visitors and Complaint Rules (19 July)
 - SRA's Solicitors Compensation Fund (21 July)
 - Rules 204 and 508 of the Bar Code of Conduct (6 August)
 - SRA Qualified Lawyers Transfer Scheme Day One outcomes assessment (20 August)
 - Master of Faculties Notaries (Supervision Fees) Regulations (20 August).
15. In addition, a general exemption was issued on 20 August for all alterations to regulatory arrangements explicitly and directly as a result of the closure of the Office of the Legal Services Ombudsman, the opening of Legal Ombudsman (LeO) and compliance with LSB's sign-posting requirements (Section 112(2) of Legal Services Act 2007).

Section 51 Practising Certificate Fee (PCF) approval

16. We received on 19 July a joint application from The Law Society and SRA, which was approved on 29 July. The approval letter noted that the process undertaken represented a significant step forward in respect of the transparency of PCF-setting arrangements and how the money collected is being used.
17. The letter also highlighted our concern that the application did not include a breakdown of costs by each permitted purpose. We accepted that the breakdown was not possible for this year, but that we expected this to be addressed in time for next year's submission. Another issue of concern was that the breakdown of revenue contained indicative allocations to activity not associated with or incidental to functions that are permitted purposes.

18. We have also received applications from CLC and ILEX. In both cases, we have requested additional information and clarification about specific parts of the application that were unclear or ambiguous. The application from the Master of the Faculties was received on 23 September.
19. We met members of The Bar Council to discuss proposed changes to the structure of the PCF, details of which have now been published on its website for consultation. Under the proposals, bandings based on years call would be reduced from five to three, with most barristers paying the same fee. Fee levels for self-employed and employed will also be aligned. The changes would impact most on the junior bar, who currently receive a greatly discounted fee of about

£150. Other changes proposed include aligning the PCF cycles for the employed and self-employed bar and changes to de-risk the residual pension burden. The proposals will be considered by The Bar Council on 2 October and will be submitted for approval to LSB shortly afterwards, under both the Schedule 4 process for structural changes and Section 51 for the level of the PCFs. We will be asked to turn the applications round very quickly. The Executive has emphasised that structure was broadly for The Bar Council and BSB to decide, but to approve both the structure and the PCF levels we will require evidence that: the changes were rational; impacts had been properly assessed / explained / justified; changes do not erect barriers to entry; and appropriate consultation had taken place and issues raised have been addressed (or explained why it is not appropriate to do so) [s36].

20. Once the PCF approval process for 2010/11 has been completed (expected to be October/November), the Board will receive a paper summarising the process, outcomes and lessons learned.

Judicial review challenge – Law Society of Ireland

21. I will update colleagues about the latest position at the meeting. We remain broadly confident of a positive outcome.

Broader policy developments

Jackson Review of Civil Litigation Costs

22. Government will be consulting shortly on Jackson LJ's recommendations in respect of the reform of funding arrangements, which will include in particular the 'recommendations on the significant reform of conditional fee agreements and other related proposals' (written parliamentary answer, 2 September). We will update colleagues on this and Lord Young's report at the meeting. We plan now to publish our referral fees document at the end of September – I hope that copies will be available for colleagues at the meeting.

Will-writing


23. The Panel has begun its investigation into will-writing. It has been asked to provide evidence of the different problems, both current and potential, experienced by consumers wishing to write a will. The investigation will seek to find out how widespread each problem is, or could be, why it happens and what the impacts are on the testator and their executors and beneficiaries. It will consider whether existing consumer protections are capable of addressing any consumer harm or whether new solutions are needed, including what the advantages and disadvantages of various ways of regulating will-writing may be for consumers.
24. We have contacted various interested parties to try and obtain financial support for a 'mystery' or 'shadow shopping' exercise, which both LSB and the Panel believe essential to build up the necessary evidence to understand the consumer experience. OFT has indicated that it is likely to commit a good level of support (still subject to relevant sign-offs), but other parties have been less enthusiastic

to contribute. We are reviewing our research priorities to see if further funds can be found internally for this important exercise [s36].

Insurance

25. We continue discussions with The Law Society and SRA about possible emerging rule changes to help to stabilise the PII market if the renewal period proves particularly difficult. However, the presence of some new entrants to the market, enhanced support for some firms secured by The Law Society and additional funding to enable SRA to intervene more rapidly in relation to firms in the assigned risk pool seem to be reducing risk [s36].

Legal Ombudsman / Office for Legal Complaints

26. LeO remains on track to open on 6 October and materials to support the launch, including consumer and profession facing leaflets, have been produced. In the week immediately prior to launch and for the two weeks that follow, we can expect to see a degree of media coverage of the new scheme. We will issue a statement of welcome to coincide with the launch and we will attend the formal launch reception on 6 October in Birmingham.
27. A paper about OLC performance reporting is presented to this meeting (**Paper 10 (64)**).
28. On 14 September, an Early Day Motion was tabled by John Mann MP, seeking an annulment of the Legal Services Act 2007 (Commencement No. 8, Transitory and Transitional Provisions) Order 2010. This Order commenced various provisions relating to LeO. Mr Mann (MP for Bassetlaw) has taken a long and close interest in the work to address miners' compensation claims.
29. 

Diversity and social mobility

30. The Chairman has written to the Universities Minister, the Rt Hon David Willetts MP (Department for Business, Innovation and Skills (**BIS**)), about our work on increasing diversity and social mobility and offered a meeting. I attended the Executive Group meeting of the Gateways to the Profession Collaborative Forum, chaired by the Minister, on 22 September, who showed both a clear personal commitment to the topic and a strong personal interest in non-graduate routes to professions, aptitude testing to address inequities in earlier educational experience, fairer access to internships and independent careers advice. The proposal for a social mobility toolkit, developed by the sub-group of the forum that I chair, has received a degree of support from professional bodies and regulators involved in the forum – although this has only been backed with a firm offer of a funding contribution in two cases. We will consider with colleagues in BIS whether other sources of funding can be found to enable the project to go ahead.

Communications

31. September has been spent continuing our work in reviewing the landscape of stakeholders outside the sector. Work has focused on deepening our knowledge of private and voluntary sector organisations and groups with an interest in our activities. Continuing our programme of third sector engagement, we have met NACRO, the crime reduction charity, and will shortly meet Barnardos and Victim Support. This programme of meetings is designed to create and strengthen links with groups representing users of legal services, but also to make sure we develop an understanding of their positions on justice issues. Results are being shared internally and links with project work are identified and followed-up where appropriate.
32. We have a series of major speeches planned for the next couple of weeks. These include an appearance by the Strategy Director at the Black Solicitors' Network conference, as well as by Fran Gillon (Director of Regulatory Practice) at the Legal Aid Practitioners' Group. I recently addressed an audience of professional service providers at the EPOQ conference about regulatory affairs, with a major focus on new commercial opportunities available as a result of the reforms to the legal services sector.

22.09.10