

To:	Board	
Date of Meeting:	30 November 2010	Item: Paper (10) 79

Title:	Chief Executive's progress report: November 2010	
Workstream(s):	All	
Author / presented by:	Chris Kenny, Chief Executive chris.kenny@legalservicesboard.org.uk / 020 7271 0057	
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:
<p>The Board is invited:</p> <p>(a) to note the Chief Executive's progress report; and</p> <p>(b) to agree the revised LSB Health and Safety Policy Statement.</p>

LEGAL SERVICES BOARD

To:	Board		
Date of Meeting:	30 November 2010	Item:	Paper (10) 79

Chief Executive's progress report: November 2010

Recommendation

The Board is invited:

- (a) to note the Chief Executive's progress report; and
- (b) to agree the revised LSB Health and Safety Policy Statement.

Operations and governance issues

Organisation development and governance

1. By the time of the Board meeting, we will have seen our new Electronic Document Management System 'go-live'. Training has gone well and the file migration programme is underway. Thanks are due to Michelle Jacobs (Business Planning Associate) for driving this project to completion.
2. Julie Myers (Corporate Director) and I met our Ministry of Justice (**MoJ**) sponsor team to discuss our Q1 and Q2 performance reports (as presented to the Board in July and October). MoJ seemed genuinely pleased with the revised format and depth of information, meaning discussion focused on progress and issues with individual projects. Pertinent points at issue are reported in the Programme highlight report (**Annex A**).
3. A useful seminar was held between LSB and Council for Healthcare Regulatory Excellence's (**CHRE**) senior teams, focussing in particular on their experience of regulator review. It is clear that there are lessons that can be learned on each side from respective experiences in legal and healthcare professional regulation and we will repeat the exercise in the next few months.
4. We remain concerned about the impact of MoJ's reform programme on our programme, most notably the impact of possible changes in policy and legal staffing to be implemented by Spring 2011.
5. The Public Bodies Bill had its second reading in the House of Lords on 9 November. LSB and Office for Legal Complaints (**OLC**) are both listed in Schedule 7 of the Bill, which indicates that they have been reviewed but that there is currently no policy intention to make changes to their status or functions. However, it does mean that they are subject to the power to be added to other Schedules (to allow changes to status or function through the new process proposed in the Bill). The Explanatory Notes to the Bill state that:

"It should be noted that where a body or office appears in Schedule 7 only,

the process to make an order in relation to the said body or office under clauses 1 to 6 of the Bill would require the making of an initial order under clause 11(1) to make an addition to Schedules 1 to 6. Both this order, and the subsequent order made under clauses 1 to 6, would be subject to the affirmative procedure."

6. There has already been considerable disquiet raised by legal peers about the impact of this on a range of legal and judicial bodies. We will update colleagues at the meeting on how the Government responds to these concerns during Committee stage.
7. Meanwhile, colleagues will be aware that we have received a letter from MoJ advising that we must close both LSB's and Legal Services Consumer Panel's websites and migrate their content to Direct.gov.uk, Businesslink.gov.uk and Justice.gov.uk (as appropriate). The same edict has been given to Legal Ombudsman (LeO). We understand that this was a decision made by Cabinet Office rather than MoJ. [REDACTED]
[REDACTED]
[REDACTED] We are aware that a number of representative arms of Approved Regulators (AR) also feel very strongly that this is an unacceptable move.
8. MoJ feedback on LSB's draft Business Plan 2011/12 will be reported during the discussion of **Paper (10) 90**.

Project update

Programme highlight report

9. The Programme highlight report is attached (**Annex A**). Although progress overall is steady, the number of risk areas has increased and colleagues should note, in particular:
 - **Internal Governance Rules (IGR)** – final IGR assessments have been returned and are now being published on the website.
 - **Quality Assurance for Advocates (QAA)** – the Strategy Director and I met the Joint Advocacy Group on 27 October to discuss design and implementation issues, in particular assessment methods, coverage of established advocates at levels 1 and 2, and the governance / proposed delivery approach for the scheme. (See **Paper (10) 83**.)
 - **Designation applications** – we are reviewing the ILEX designation application [REDACTED]. We are also reviewing the schedule of designation applications that we expect to receive in 2011.
 - **ABS appeals** – the Consultation has closed and a paper will be presented to the Board on 13 December. The Law Society's response highlighted a

fundamental objection to the policy proposal, [REDACTED]

• [REDACTED]

Alternative Business Structures (ABS)

10. The standing report about the key issues and risks facing the implementation of ABS is presented, in the revised format, to this meeting (**Paper (10) 80**).
11. A large number of Orders must be made over the next nine months. Much of this is reliant on MoJ's commencement team, and there are detailed plans in place to minimise the risk of slippage. We will be consulting on further rules relating to the regulation of ABS (**Papers (10) 85-87**). We continue discussions with MoJ about agreeing the ABS Maximum Financial Penalty Order, and I will update colleagues at the meeting (**Paper (10) 87**).
12. We continue also work to prepare for the consideration of the applications for designation as Licensing Authorities. [REDACTED]

[REDACTED] The draft impact assessment is developing well and we are 'on track' to present it to the Board on 13 December. This will provide the most comprehensive review to date about the market and possible impacts on ABS.

Research

13. In the past month:
 - we sent out requests for further information from regulators and professional bodies about the data and evidence they hold;
 - we commissioned two projects on will-writing: the first, jointly commissioned with the Legal Services Consumer Panel, Office of Fair Trading and Solicitors Regulation Authority (**SRA**), will use 'shadow shopping' to test the quality of wills produced and consumer experience of service in different segments of the market; the second will carry out interviews with will providers and a quantitative study of consumer experience of the market;
 - we put out to tender a specification for research to develop a framework for studying the supply of legal services, which we expect to commission at the start of December.
14. Our focus over the coming month includes:
 - following-up with regulators and professional bodies to ensure returns for our information request;

- commissioning the supply framework study;
- finalising the economics of legal market regulation paper and organising an academic seminar in advance of a publication in Q1 of 2011/12;
- arranging research programme seminars for January.

Regulatory decisions

Rule approval and exemptions

15. There have been no applications to change regulatory arrangements from ARs, and none are pending.
16. Two Exemption Directions have been issued to SRA relating to changes to the Reconsideration and Publications Policies.

Section 51 Practising Certificate Fee (PCF) approval

17. We have approved the applications under Section 51 of the Act from The Bar Council and Intellectual Property Regulation Board (**IPReg**) (on behalf of The Chartered Institute of Patent Attorneys (**CIPA**) and The Institute of Trademark Attorneys (**ITMA**)). In the approval letter to The Bar Council, we commented favourably on the consultation that had been completed with members (and which had led to a change in approach) and noted that we expected the consultation to be extended in 2011 to include non-commercial bodies in 2011. We also expect improvements next year in the analysis of the split of shared services costs between representative and regulatory functions and clearer evidence of the independence of Bar Standards Board (**BSB**) to set its own budget.
18. IPReg did not consult with members this year, relying instead on responses received to an earlier consultation. We have made clear that we expect there to be consultation with members and non-commercial bodies in 2011. In addition, we noted that the regulatory arm must have the independence to set its own budget.
19. The application from the Association of Law Costs Draftsmen is being considered.
20. We committed previously to undertaking a 'lessons learned' exercise once all the PCF applications had been approved. A paper will be presented to the Board on 27 January.

Other policy developments

21. Other policy developments – about which I will elaborate at the meeting – include:
 - **The future of education and training for the legal workforce** – the Chairman and I engaged with a range of stakeholders this month in preparation for the 2010 Lord Upjohn Annual Lecture on 19 November,

organised by the UK Association of Law Teachers. The Lecture was used as a vehicle for the launch of the Joint Review into education of training of lawyers, led by three of the ARs (SRA, BSB and IPS). The Lecture allowed us to set out the conditions that have given rise to the need for an urgent re-examination of education and training, whilst also establishing in public some crucial benchmarks for the success of the Review.

- **Smaller ARs** – as part of our general stakeholder engagement activities, the Chairman and I met this month representatives of most of the smaller ARs, including CLC, IPReg, CIPA and ITMA.
- **Schedule 18 of the Act** (relating to immigration advice and services) – we will issue a consultation on proposed changes to the rules for AR applications during the week commencing 29 November.
- **25th Annual Bar Conference** – the Chairman participated in a BSB-hosted panel discussion about legal regulation on 6 November, alongside Baroness Deech (Chair, BSB), Elizabeth France (Chair, OLC) and Baroness Hayter (Chair, Legal Services Consumer Panel). The session was lively, with barristers seeming to focus more on the 'naivety' of regulators, rather than on the future of legal services regulation.

Legal Ombudsman / Office for Legal Complaints

22. Colleagues will have received by email a copy of LeO's draft Business Plan 2011/12.



Legal Services Consumer Panel

23. The Corporate Director and I met officials from the Department for Business, Innovation and Skills on 22 November to discuss the Government's proposal to absorb the Panel in to Citizens Advice. I will update colleagues about the outcomes of this discussion at the meeting. I am also due to meet Gillian Guy, Chief Executive of Citizens Advice, on 10 December. Colleagues will be aware of the Chair of BSB's speech in the House of Lords about the Panel.
24. The Panel's advice on quality in legal services is presented to this meeting (**Paper (10) 82**).

Communications

25. This has been another busy month for speaking engagements, with the Chairman addressing the Hildebrandt Institute GC Forum on new opportunities for city law firms, coupled with the greater flexibility of outcomes-focused regulation. Alongside this, I spoke about diversity at an event run in partnership between the Society of Black Lawyers and the National Union of Students, which

provided an opportunity to announce our intention to create diversity-related transparency obligations over firms and chambers as a means to drive positive change on access, retention and progression. Engagement with events led by ARs continues to be a priority, with the Chairman addressing the 25th Annual Bar Conference (see above). A final strand of engagement has been my attendance at media-sponsored events, including The Lawyer's forum on the impact of ABS, the MASS conference and the GC and smaller scale discussion forums such as the Senior Law Firm Lawyers' Breakfast.

26. Fran Gillon (Director of Regulatory Practice) spoke on ABS at the Central Law Training conference, while the Strategy Director addressed the Society of Will Writers and took part in a panel alongside Jackson LJ organised by the Birmingham Law Society.
27. We have started to re-visit the communications strategy for next year, with a view to making fewer conference speeches on commercial platforms, especially where we would be 'double-running' with an AR, and concentrating on instead on some significant strategic interventions, for example on the lines of the Lord Upjohn Annual Lecture.

Health and Safety Policy

28. All organisations employing more than five members of staff are required to have a written and signed statement of general policy on Health and Safety.
29. The Board has recognised and accepted its responsibility as an employer for ensuring, as far as is reasonably practical, that the health, safety and welfare at work of all its colleagues is safeguarded and that the health and safety of visitors and of the general public are not adversely affected as a result of LSB's activities.
30. The policy approved by the Board in 2009 has been updated to reflect, for example, current processes (e.g. regular meetings of the health and safety group). The Board is invited to approve the revised LSB Health and Safety Policy Statement (**Annex B**), which must be reviewed every 12 months.

23.11.10