

To:	Board
Date of Meeting:	25 April 2012
Item:	Paper (12) 35

Title:	Law Society and SRA monitoring
Workstream(s):	Securing independent regulation
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Status:	Protect

Summary:

On 19 December 2011 we sent the Law Society the LSB's assessment of their compliance with the regulatory independence dual self-certification exercise for 2011. We concluded that the Law Society were not compliant with the rules during 2011. We did conclude that the new arrangements to be introduced for the provision of shared services and oversight of the SRA had the potential to be compliant with the IGRs however they need to be introduced as written and in line with the timetable provided.

To ensure this the LSB issued a section 55 requirement for the Law Society to provide a monthly report on the implementation of the agreement, any relevant shared services issues, a log of information requests and their outcome and any other matter relevant to the IGRs. We also require the provision of all papers, minutes and agendas for the new Business and Oversight Board. A minor amendment was made to the requirement regarding the delivery of papers. This is the version currently in force and included at **annex A**.

Under the section 55 requirement we have received three monthly reports and two sets of papers for the business and oversight board. Broadly these documents have not included issues that are particularly concerning. However, it is clear that the operation of the new arrangements remains somewhat fragile and are yet to be fully embedded in the day to day operations of the SRA and Law Society. They also yet to have a permanent Director of Organisation Services in situ, although a candidate has been identified to take up the appointment early in May

The three monthly reports have also omitted the log of information requests that we asked for and were required to be produced according to the wording of the oversight protocol agreed between the Law Society and the SRA. The LSB queried the omission; and it appears that the intention of the agreement was not that 'all' information requests would be logged but instead only *formal* information requests would be logged. The SRA has reconsidered the language in the oversight protocol and has worked with the Law Society to amend the language. The amended arrangements are at **annex B**. The SRA will now *monitor* information requests rather than *log* them. The requests they will monitor are those which go direct to the CEO's office and are therefore considered as significant requests. Informal dialogues and information exchange will not form part of the monitoring.

The changed arrangements were agreed by both Chief Executives and discussed with the SRA chairman. They will be reported to Council, Management Board and SRA board at their next meetings. The details of how the arrangements were agreed and a short explanation of the monitoring process can be found in the letter dated 23 April from Antony Townsend and included as **annex C**.

Regardless of the interpretation of the arrangements the Law Society / SRA have effectively not complied with the information requirement for three months. This is because the requirement was broader than simply to provide the log. However, it was our intention that provision of the log to the LSB would represent compliance with the requirement. We felt it would be simpler for the Law Society to provide a copy of a document that is in existence rather than create a new document.

It is the LSB's view that it is not unreasonable for the SRA to have concluded that it would be disproportionate to log 'all' requests for information; and it is quite appropriate that the Law Society, acting in its representative capacity, will discuss matters and request information from its regulator on an informal and fairly regular basis.

[REDACTED]

[REDACTED]

Despite these risks the LSB are prepared to accept the change to the arrangements and altering the section 55 requirement to reflect these changes. This is because we believe the correct incentives are in place to make this agreement effective. However, the fact that the arrangements are still new and fragile; the Director of Organisation Services is not in situ; and, the risks relating to the information requests detailed in the two paragraphs above the monitoring should be continued.

We therefore recommend amending the section 55 requirement to remove the requirement to provide detail on all information requirements. We should reaffirm that the monthly report should include details of any instances where the SRA has informed the Society that it considers a request or requests more generally have been disproportionate or inappropriate.

Recommendation(s):

¹ [REDACTED]

The Board is invited:

- (1) to review the amended arrangements
- (2) authorise the LSB executive to amend the section 55 requirement dated 16 February 2012 to reflect the new arrangements and to reaffirm the requirement for the monthly report to include details of, and appropriate comment from both sides on, information requests that have been considered disproportionate or inappropriate by the SRA.

Risks and mitigations

Financial: n/a

Legal:

[Redacted text]

Reputational: High profile area which is one of three key LSB business priorities.

Resource:

Consultation	Yes	No	Who / why?
Board Members:		X	
Consumer Panel:		X	
Others:	No		

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires
Summary section: Paragraph 3 (last sentence), paragraph 4, footnote and <i>Legal</i> paragraph in <i>Risks and mitigations</i> box	S36	

LEGAL SERVICES BOARD

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List of Annexes:

Annex A: Law Society section 55 requirement dated 16 February 2012

Annex B: Law Society and SRA revised oversight arrangements

Annex C: Letter from SRA to LSB dated 23 April 2012