

To:	Legal Services Board	
Date of Meeting:	11 July 2012	Item: Paper (12) 52

Title:	Chief Executive's Progress Report - July 2012	
Workstream(s):	All	
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Status:	Protect	

Summary:
<p>The paper updates Board members about:</p> <ul style="list-style-type: none"> • operational and governance issues • progress on key projects • other internal and external policy developments • stakeholder and communications activities.
Recommendation(s):
The Board is invited to note the Chief Executive's progress report.

Risks and mitigations	
Financial:	N/A.
Legal:	N/A.
Reputational:	N/A.
Resource:	N/A.

Consultation	Yes	No	Who / why?
Board Members:		✓	N/A.
Consumer Panel:		✓	N/A.
Others:	N/A.		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Annex A and Annex B	s36 and also exempt under LSA s167 and s44 Fol	

LEGAL SERVICES BOARD

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Chief Executive's Progress Report – July 2012

Operations and Governance Issues

Organisation development and governance

1. Performance appraisals for all colleagues have now concluded and results have been reported to Remco. Following Remco discussion, the Director of Finance and Services is, in parallel, working on the final stages of our Pay Remit submission to the Ministry of Justice (MoJ). This will be in line with HM Treasury guidance.
2. There is an update on the latest position with regard to the Triennial Review at item 16 on today's agenda.
3. During June, we completed development work to ensure that the LSB and Legal Services Consumer Panel websites were compliant with 'cookies' legislation. We also invited the Information Commissioner's Office (ICO) to conduct an advisory visit to the LSB to assist development of our approach to data protection legislation compliance. Their very positive report revealed a number of areas where the LSB was demonstrating best practice in terms of information governance alongside some areas for development.
4. We have received notification from MoJ of the launch of a cross-government branding initiative, which would see all Government departments and arms length bodies being required to adopt a standard brand identity of the crown with name of department/body underneath (similar to current Cabinet Office branding). The rationale is two-fold – development of consistent branding and cost-efficiency. There is a recognition that adoption of such branding may not be appropriate for some ALBs and an exemption process is available. In light of the need for the LSB to be, and be seen to be, clearly independent from Government, the Executive believes that it should submit a case for exemption.
5. Also this month, the Director of Finance and Services and I met Joyce Drummond-Hill, MoJ's Head of Internal Audit. We have subsequently received a request that MoJ attend our Audit and Risk Committee meetings. The follow-up also alluded to our potential future use of MoJ Internal Audit as our internal audit team once our contract with KPMG expires. This reflects the general push from MoJ, and indeed across Government more widely, that ALBs and departments make greater use of shared services. We are discussing with ARC members immediately before the Board meeting.

6. Cabinet Office have re-issued directions on all prevailing cross-government spend controls and we are studying them carefully to understand where the implications for non-Crown bodies may be different to those applying to Crown bodies.

Project Update

Project Update

7. The Q1 performance report is attached at item 12 on today's agenda (Paper (12) 53). Our developmental programme remains on track with no major issues of concern to report that are not included elsewhere on this report. The Programme Board process continues to prove a useful discipline to identify, in particular, overlaps and dependencies in our programme.

Legal Services Consumer Panel

8. The Panel held its most recent meeting on 27 June. The Consumer Impact Report 2012 is attached at item 8, Paper (12) 51 on today's agenda.

Research

9. Since the Board's last meeting we have:
 - received the draft report of the high street survey jointly commissioned with MoJ and the Law Society
 - received the draft report of Dr Chris Hanretty's work on statistical modelling of advocacy quality
 - started work on the questionnaire for the quantitative stage of the contingent valuation work on the value of regulation
 - commenced work on the redevelopment of the research pages for the LSB website
 - published our research on understanding consumer needs from legal information sources and written an article for Jon Robins' Justice Gap website.
 - presented to senior policy making and analytic staff on our work on market analysis and evaluation
10. Our focus over the coming months will include:
 - completing the work on reshaping the research pages for the LSB website
 - publishing the remaining reports from the 2011/12 research programme (small-business benchmarking study, consumer access to justice study, benchmarking consumer ethics and cost protection report)
 - finishing the fieldwork for the contingent valuation research and finalising the high-street solicitors report
 - publishing the statistical modelling of advocacy quality report
 - receiving the first draft of the cab rank rule research
 - receiving and analysing the latest regulatory data for use in the updating of the evaluation report.

Regulatory Decisions

11. Since the last report we have issued three decisions on applications to change regulatory arrangements:

- SRA Practice Framework Rules – Rule 4: In-house practise (the rules that were the subject of the Fish Legal judicial review application against the SRA)
- SRA Client Financial Protection Rules (professional indemnity insurance and compensation scheme)
- BSB Equality and Diversity Provisions and related Guidance

12. The BSB made a number of very welcome amendments to the Guidance on the Diversity Data Collection Rules addressing the issues that were discussed at the last meeting. We will review the effectiveness of the BSB arrangements as part of our ongoing work on Equality and Diversity.

13. In addition, four exemption directions have been issued:

- SRA QASA Notification Rules
- SRA Extension of timescale for COLP and COFA of recognised bodies approval
- CLC Licensed Body (ABS) Framework – removal of requirement for applicants to submit a diversity profile; CLC increasing the frequency of data collection and publication across the whole of its regulated community to every two years (from three)
- IPS QASA Notification Rules

14. I will provide an oral update on the BSB's aptitude test proposal.

15. A separate report, Paper (12) 47, has been submitted on the Cab Rank Rule application.

Section 55 Notice – Law Society / SRA independence monitoring

16. The Law Society has now delivered in terms of the activities detailed in the action plan submitted with their independence certification – albeit with some slippage around recruitment of the Director of Organisation Services. The agendas of the Business and Oversight Board have been in line with their remit. The new arrangements appear to be working and they are making progress on shared services issues. However, the new arrangements have not been tested in relation to oversight or dispute resolution

17. The monitoring has also raised our awareness of a number of risks in relation to the major shared services projects and the group's control environment. These have been addressed in senior level dialogue with the SRA, the current status of which is reflected in the letter at **Annex A**.

18. The executive is currently considering options in relation to the continuance and/or amendment of the monitoring to reflect the relative rebalancing of our concern from independence to performance issues and will advise the Board in the Autumn.

Regulatory effectiveness self-assessment process

19. We have now analysed all the draft self-assessments and provided feedback to the ARs, both in writing and, for all but the SRA, at meetings and telephone calls.

20. A common theme across all ARs was the failure to use Oxera framework as the basis for their approach to understanding the market(s) they regulate. We have arranged two workshops in July to explain how the framework can be used in practice.

21. A further common theme was insufficient data from the Legal Ombudsman – see also the papers today on immigration (Paper (12) 48) and first tier complaints handling (Paper (12) 49). We will continue to encourage ARs to work with the Legal Ombudsman to improve the usefulness of the information provided to them.

22. Summaries of the current position and key issues/concerns by individual AR are set out in **Annex B**.

Other Policy Developments

QASA

23. The fourth and final consultation on the Quality Assurance for Advocates (QASA) scheme is currently on track for launch on 9 July. The consultation will be issued jointly by SRA, BSB and IPS and will consist of a response to the third consultation (including the approach to non-trial advocates), the proposed Handbook which provides further detail on how the scheme will operate in practice, and the draft rules. A small number of issues relating to nomenclature for assessment of non-trial advocates and client notification are currently being discussed within JAG in advance of final documents being agreed. An update on any remaining issues will be provided at the Board meeting.

24. Both SRA and ILEX PS are proceeding as planned with mandatory notification as agreed with the LSB in March. This will provide valuable data on patterns of practice and assist with resource planning. The BSB has decided not to proceed with notification in order to focus resources on implementation. We have been assured that they remain committed to the timetable below.

25. Judicial training on the assessment process will be piloted in September followed by roll out from October 2012 and is now supported by the Council of Circuit Judges. Mandatory registration for the first of three phases of advocates will begin on 14 January 2013, subject to LSB approval of the proposed regulatory arrangements which are expected to come in for approval in early December.

BSB and COIC issue

26. BSB are keeping us up to date with emerging thinking on the problems with appeal procedures. I will provide an oral update at the meeting.

Fish Legal

27. Fish Legal's application for permission to apply for Judicial Review was refused by the Admin Court on 18 June 2012 and they have not chosen to appeal the issue, probably because we have approved the SRA's rule change and the relevant provision has been deleted. We incurred no external costs by dealing with this matter in-house.

ICAEW and accountancy bodies

28. On Friday 29 June ICAEW published its consultation document on its application to become an Approved Regulator and Licensing Authority for the reserved legal service of Probate activities. The consultation closes on 7 September and we expect to receive a formal application at the end of September or the beginning of October. We have provided the ICAEW with specific feedback during their drafting process and hope that this early engagement will help ensure that we receive a complete application when we receive it. This will enable the LSB to concentrate on assessing the application and making the decision rather than chasing missing information.

29. The LSB will be meeting the ACCA in mid-July to discuss their current plans.

Legal Education and Training Review

30. I undertook to update the Board on the output of the seminars as well as providing a general update on the review. Details are attached at **Annex C**.

Office for Legal Complaints (OLC)/Legal Ombudsman

31. Recent and forthcoming issues of interaction with OLC include:

- Quarterly OLC/LSB/MoJ meeting – MoJ updated on the Triennial Review and the Post-Legislative Scrutiny exercise. OLC updated on Claims Management Complaints and Voluntary Jurisdiction. We also discussed the changes to the LeO Scheme Rules and the possible need for Parliamentary process to implement some of the changes.
- LeO/CLC meeting – we were asked to host a meeting between LeO and CLC to discuss matters relating to redress awards and failed firms. This also provided a useful opportunity to discuss data sharing.
- Along with Barbara Saunders, colleagues and I attended the second Redress and Regulation meeting with OLC/LeO and MoJ. This provides a useful forum to consider mutual implications and areas of possible overlap in relation to remit issues arising from LSB scope of regulation activity and LeO development of jurisdiction activity. We took the opportunity of urging MoJ officials to be willing to press for greater urgency in pursuing the will-writing and estate administration issues;

- Steve Green received LeO's Q2 Stakeholder Survey following KPI meeting on 24 May – results are generally positive, showing good levels of awareness and engagement, however it is acknowledged that more work needs to be done around communications of LeO's role and values. Steve may wish to add further comment.
- The OLC's Annual Report and Accounts is due to be laid on Tuesday 10 July 2012.

Communications

32. Since the last Board meeting, I have taken part in a number of events including the SLS Legal Education conference on 12 May and the Law Tech Camp 2012 on 29 June. I have also been invited to meet the Irish Minister of Justice at the end of this week and to speak at a conference on legal services reform promoted by his Department on 5 July.
33. We also welcomed a visit from a number of visiting American students from the Michigan State University Law-Westminster 21st Century Law Practice Program.
34. A number of articles were contributed to the trade media. An article on 'regulatory standards and assessing regulatory performance' was provided to the Legal Compliance Bulletin. We produced an article for the Young Lawyer Magazine's website launch. We also provided an opinion piece for a new magazine called Modern Law which is due to be published in the next month.
35. The LSB's Diversity and Social Mobility assessments were published on the website (31 May) and attracted some interested coverage, coming as they did in close proximity to the Milburn Report on Social Mobility. Also published and which generated informed external coverage were an LSB report exploring the types of information consumers need to help them address legal issues (6 June), the consultation on extending the SRA's compensation fund for ABS into 2013 (14 June) and the annual report (19 June), which attracted significant favourable trade press coverage. More generally, there has been a steady but welcome increase in the volume of trade press coverage and increasing understanding of both our role and messages.