

The Rt Hon. the Lord Keen of Elie QC
Ministry of Justice
102 Petty France
London
SW1 H 9AJ



**LEGAL SERVICES
BOARD**

The Chair's Office
Legal Services Board
One Kemble Street
London WC2B 4AN

T 020 7271 0043

www.legalservicesboard.org.uk

20 October 2017

Dear Lord Keen

Tailored Review of Legal Services Board

My Board has now had an opportunity to consider in detail the recommendations arising for LSB from your Department's Tailored Review.

I would like to thank your officials for the way in which they conducted the Review. We were particularly pleased at the care taken to understand the nuances attached to the Department's relationship with an independent regulatory body when compared with a more typical arm's length body with a delivery remit. These differences are marked and important, particularly where the independence of the legal sector is concerned.

We were pleased with the tenor and the tone of the Review as regards the performance of the LSB and the value that our work has, and has the potential to have, on improving outcomes for the legal services sector and its users. The conclusions provide important public endorsement of our role and remit.

My Board has reviewed the report and considered carefully how it will respond to each of the recommendations made to us. I attach our response to each at Annex A and I am sure our respective officials will be able to discuss these in more detail where necessary.

This work will we hope contribute to improving the effectiveness and efficiency of the Legal Services Board for the public, the professions and consumers alike.

Yours sincerely,

A handwritten signature in black ink that reads 'Helen Phillips'. The signature is written in a cursive, flowing style.

Dr Helen Phillips
Interim Chair

Annex A

Action proposed on recommendations from Tailored Review

Tailored Review recommendation	LSB response/action proposed
Recommendations to LSB	
<p>R1: The functions of the LSB are still required by Government. The LSB should therefore retain its current functions.</p> <p>R2: It is efficient and effective for the Consumer Panel to operate as an independent arm of the LSB and it should continue to do so.</p> <p>R3: The functions of the LSB need to be delivered independently of Government and the professions. The LSB operates effectively as an Executive NDPB. The LSB should therefore retain its current form as an Executive NDPB.</p>	<p>The LSB welcomes these recommendations – no LSB action is required to address them.</p>
<p>R4: The Competition and Markets Authority's Legal Services market study made recommendations to the LSB to oversee and report on frontline regulators implementation of remedies to improve consumer information and transparency. The LSB should enact these.</p>	<p>In April 2017, LSB made a public statement in response to the CMA's legal services market study and confirmed how it would implement the recommendation directed to it. Work is well underway with good progress being made. Full information on the progress of the LSB's work in this area can be found on this page of the LSB's website.</p>
<p>R5: To promote diversity in its organisation, the LSB should carry out a diversity survey of its staff and board, and publish the results at least every two years. The form of the survey and the level of information published must be determined with regard to appropriately preserving the anonymity of individuals.</p>	<p>In April 2017, the LSB conducted an anonymous diversity survey of its colleagues, Board and Consumer Panel members. The results were reviewed by the Remuneration and Nomination Committee and the Board in July 2017 and a report of the results was published in September 2017. We will repeat the survey in April 2019.</p>
<p>R6: To ensure there is no perception that the LSB is carrying out actions beyond those necessary to fulfil its statutory functions, the LSB should:</p> <p>a) clearly highlight on published research how that research links to its objectives and statutory functions; and</p> <p>b) reflect further on its impact in its annual report, and visibly tie all work to either its statutory functions or the regulatory objectives.</p>	<p>With regard to R6a, whenever we publish research we prepare and publish a companion research summary, which explains: why the research is important; why we undertook the research; what new information we found; and how we are going to use it. These summaries reference the objectives the research supports and the aspects of the LSB work programme it is intended to inform. We will review future</p>

	<p>summaries to ensure that the link between our objectives and functions is made as clear as possible. Additionally, in future when we tender for research, our brief will explain how the research is expected to link to the regulatory objectives and our statutory functions. Full information about the LSB’s research is available on our website.</p> <p>With regard to R6b, we will consider carefully how we can provide a clearer explanation of our impact in future annual reports, and how best to make the links between our work, the regulatory objectives and our statutory functions.</p>
<p>R7: To ensure continued public and international confidence in the regulation of the legal sector, the LSB should use all of its powers to provide robust assurance on the separation of the frontline regulators from the representative functions of the approved regulators, including the use of its investigative powers where appropriate. Any changes, including those as a result of the review of internal governance rules, should be made within the existing legislative framework.</p>	<p>The Legal Services Act 2007 provides the LSB with its statutory remit to ensure the independence of regulation from representative interests. The Review confirms that that this remains a contentious area. LSB can confirm that it is already committed to a programme of work in this area, including a review of its Internal Governance Rules (as outlined in our 17/18 Business Plan) and notes the message that legislative change is unlikely to be forthcoming in this area. Information on our work in this area can be found on our website.</p>
<p>R8: Whilst undertaking its ongoing review of its process for assessing frontline regulators, the LSB should take into account the recommendations of the Cabinet Office’s Regulatory Futures review.</p>	<p>The LSB took part in the process to develop the Regulatory Futures review, which noted our role as an oversight regulator (in contrast to the majority of regulators reviewed for the report). Themes from the review have formed part of our thinking in developing our approach to assessing frontline regulators although there are not often direct parallels. We remain out to consultation on our approach and this may result in further adjustments.</p>
<p>R9: To provide assurance on the efficiency of its organisational structure, the LSB should conduct a review of its senior staffing structure, with a view to establishing future efficiencies.</p>	<p>The Board has looked at its senior staffing structure, including discussing succession planning with the Remuneration and Nominations Committee. As and when there are senior vacancies, opportunities may arise to explore alternative staffing models. We will discuss this further with MoJ.</p>

Recommendations for the LSB and MoJ	
R10: Principles of good governance require that framework agreements be kept up-to-date. The LSB and MoJ framework agreement should be updated and then reviewed at least every three years.	We agree. We have been pressing MoJ to proceed with this work since the outcome of the LSB's Triennial Review in 2012. LSB provided comments on a revised draft in August 2016 but a response to those was only received in August 2017. We are now reviewing the further substantial revisions and would expect to have a new agreement in place by close of 2017.
Recommendations for MoJ, LSB and OLC	
R18: To ensure clarity of roles and lines of accountability the LSB, MoJ, and OLC should publish the tripartite operating protocol setting out the three parties' roles and responsibilities. This should be reviewed after six months and every three years thereafter.	All three parties signed the tripartite operating protocol in June 2017 and it has been published on the LSB and OLC websites. The proposal for a six month review seems rather early bearing in mind much of the protocol covers activities that only happen on an annual cycle but we will of course work to the timetable that is agreed between the three parties.
R19: The LSB and OLC holding to account meetings with MoJ should be reviewed to support and reflect the lines of accountability set out in the updated tripartite operating protocol.	Preliminary discussions have been held with MoJ on this matter and we await next steps.