

## Minutes of a meeting of the Legal Services Board (LSB)

**Date:** 23 March 2017  
**Commencing:** 14.00  
**Venue:** Solicitors Regulation Authority (SRA) Offices, 24 Martin Lane, London EC4R ODR

**Present:** Sir Michael Pitt Chairman  
**(Members)** Neil Buckley Chief Executive  
 Terry Babbs  
 Jemima Coleman  
 David Eveleigh  
 Marina Gibbs  
 Jeremy Mayhew (attended from 3.15 pm)  
 Dr Helen Phillips  
 Catharine Seddon (dialled in from 2.50 pm)  
 Michael Smyth CBE QC (Hon) (attended until 4.45 pm)

**In attendance:** Nick Glockling Legal Director  
 Edwin Josephs Director of Finance and Services  
 Julie Myers Corporate Director  
 Caroline Wallace Strategy Director  
 Toni Whitby Corporate Governance Manager (minutes)

### In attendance for specific agenda items:

Jenny Prior Business Planning Associate  
 Kate Webb Head of Regulatory Reviews and Investigations  
 Chris Nichols Regulatory Project Manager  
 Steve Brooker Head of Research and Development  
 Callum Armstrong Regulatory Associate

**External attendance:** Steve Green Chair, OLC  
 Nick Hawkins Chief Executive, OLC  
 Kathryn Stone OBE Chief Legal Ombudsman  
 Dr Jane Martin Chair, LSCP  
 Lola Bello Consumer Panel Manager

### Item 1 Welcome and apologies

1. There were no apologies. Catharine Seddon attended the meeting from item 6 and had provided comments on agenda items to the Chair. Jeremy Mayhew attended from item 7. Michael Smyth left the meeting at item 14.

### Item 2 Declarations of interests relevant to the business of the Board

2. There were no declarations of interest. Board members would shortly be asked to complete an annual related party disclosure declaration to inform the Annual Report and Accounts.

### **Item 3            Items considered out of Board since 24 November 2016**

3. The Finance Report for January 2017 had been circulated electronically on 8 February 2017.
4. The Board had been asked to decide the outcome of the OLC Chair and OLC Member recruitment exercises electronically on 15 February 2017. The Board had **APPROVED** the appointment of Wanda Goldwag as OLC Chair, subject to the Lord Chancellor's approval being received; and then a pre-appointment scrutiny hearing before the Justice Select Committee. The Chief Executive's report, considered later in the meeting, provided an update. The Board had **APPROVED** the appointment of Rebecca Hilsenrath as OLC Member which appointment will be for an initial period of three years commencing on 1 April 2017.

### **Item 4            OLC Budget 2017/18 | Paper (17) 10**

*Steve Green, Kathryn Stone, Nick Hawkins and Jenny Prior attended the meeting*

5. Steve Green, Chair of OLC, Kathryn Stone, LeO Chief Legal Ombudsman and Nick Hawkins, LeO Chief Executive, attended the meeting to present the OLC Budget 2017/18.
6. Schedule 15 of the Legal Services Act 2007 requires the OLC to adopt an annual budget, before the start of each financial year, which must be approved by the LSB. The Board had considered the OLC's initial budget principles at its November 2016 meeting. The OLC had considered and approved the budget before presenting it for approval to the LSB. In parallel, the OLC had also sought the necessary approvals from the Ministry of Justice (MoJ) who had approved the budget subject to LSB's approval.
7. In setting out the context for the budget, the Board considered the following:
  - the OLC were seeking a total budget of £14.63m for 2017/18, an increase of £1m from the 2016/17 budget of £13.63m;
  - the increase reflected an increased sum for bad debt contingency and one-off, non-recurring costs to implement the Modernising LeO programme. Without these two items the budget showed a downward trajectory in real terms;
  - the Strategy and Business Plan 2017-2020 that sat behind the budget;
  - proposed organisational changes within the Ombudsman office, which would assist LeO to meet all of its strategic objectives;
  - that there would be a new OLC Chair from 1 April and both the Board and Executive were at full complement;
  - the implementation of new flexible working to manage the workload peaks and troughs, which would improve complaints handling response times.
8. OLC colleagues advised the Board that the National Audit Office had recently advised the OLC that the accounting treatment for fees due to be charged to companies that had entered into administration should be changed, with those fees no longer to be treated as income (and thus a corresponding amount as bad debt if not paid). The impact of this change would be neutral.
9. The Board noted the claims management company (CMC) jurisdiction would be moving to the Financial Ombudsman Service, but that this was not expected to happen before April 2019. In response to a question from the Board about the

impact the transfer of the CMC jurisdiction would have on the budget, the OLC Chair noted that this may result in an increase in the levy which was received from the approved regulators, as some of the overheads would no longer be shared and could not be totally eliminated. Steve Green stated that the legal jurisdiction had benefited from sharing of overheads since the OLC had taken on the CMC jurisdiction. Discussions were being held between the OLC and the Treasury on funding implications arising from the transfer. The Board stressed that the narrative around any such impact on the levy would need to be very clear.

*Steve Green, Kathryn Stone, Nick Hawkins and Jenny Prior left the meeting*

**10. The Board APPROVED the proposed OLC Budget for 2017/18.**

**Item 5 OLC performance reporting requirements | Paper (17) 11**

11. The Board's current section 120 reporting requirements on the OLC were due to expire on 31 March 2017. The current requirements specify that the OLC must provide a monthly report to the LSB on its performance against key performance indicators and a quarterly report explaining why in the OLC's view, any targets had not been met, the reasons for that and actions proposed.
  
12. The Board discussed the OLC's performance and what future reporting requirements might be appropriate from 1 April. The Board considered the following points:
  - there would be a new OLC Chair from 1 April and a new LSB Chair later in 2017;
  - the Tripartite Operating Protocol between the MoJ, OLC and LSB would be finalised and discussion should be held with the MoJ to consider what would be appropriate reporting;
  - the Tailored Review's final report was expected in April and this could include recommendations around the relationship between MoJ, LSB and OLC;
  - the LSB's role is to consider the effectiveness of the OLC in administering the Legal Ombudsman scheme;
  - the OLC provided the LSB with its Board papers including comprehensive performance reports;
  - the impact of performance reporting requirements had had on the LSB's relationship with the OLC;
  - the continued value of transparency - reporting performance information publically;
  - the frequency and openness of contact between LSB and OLC non-executives and executives;
  - the need for future performance reporting to be appropriate for ARAC to perform its assurance role.
  
13. The Board debated the proportionality of S120 reporting requirements in light of the information that was provided voluntarily by the OLC. There were different opinions about the impact of the statutory reporting requirements. The Board agreed that if this disclosure continued it was likely to be disproportionate to retain the quarterly narrative S120 reporting requirement. With regard to the monthly report of performance, the Board discussed that there would be merit in exploring with OLC whether they would voluntarily disclose performance reporting on their website to allow consumers and the legal professions to hold the LeO to account.

14. **The Board AGREED to:**
- **Continue to monitor the OLC's performance in administering an effective Legal Ombudsman scheme without using its section 120 powers. This was with the proviso that the OLC was willing to continue to provide performance reports to the LSB on a voluntary basis and to begin reporting publicly on its own performance.**
  - **Delegate authority to the Chairman and CEO to discuss this approach with the OLC.**

*Catharine Seddon dialled into the meeting.*

**Item 6 LSCP draft work programme 2016/17 | Paper (17) 12**

*Dr Jane Martin and Lola Bello attended the meeting.*

15. The Chair welcomed Dr Jane Martin, Chair of the Legal Services Consumer Panel, to her first LSB Board meeting.
16. Dr Martin summarised the work programme for 2017/18, which represented year three of the Panel's three year strategy. The Board considered the strategy and work programme to be clear and both were well received. In response to questions from the Board, Dr Martin confirmed:
- the Consumer Panel was committed to ensuring it remained involved in the work to implement the recommendations of the CMA's legal services market study. Dr Martin had written to the CMA, copied to the LSB, and had a follow up meeting with the CMA to consider how best to involve the Consumer Panel going forward. It was noted that the Consumer Panel would continue to play a strategic role.
  - Dr Martin acknowledged that with limited resources the Consumer Panel would be challenged to fulfil all of its strategic aims and continue to have an impact but remained optimistic.
17. The Board asked the Consumer Panel to consider reflecting the style of the LSB's Business Plan by including success criteria metrics for the Consumer Panel's work.
18. **The Board endorsed the LSCP work programme for 2016/17.**

*Dr Jane Martin and Lola Bello left the meeting.*

*Jeremy Mayhew attended the meeting*

**Item 7 LSB business plan and budget 2017/18 | Paper (17) 13**

19. Neil Buckley presented the LSB business plan and budget for 2017/18. The business plan comprised the work programme for the third and final year of the LSB's three year strategic planning period.
20. The Board considered the following points:
- predicted underspend of approximately £400k for the current financial year;
  - proposed adjustments to the scheduled work programme, which took account of feedback received from the external consultation. The Board noted that Executive had written separately to ACCA with respect to their feedback to the consultation;
  - the Audit and Risk Assurance Committee (ARAC) had endorsed the budget having been provided with assurance from the Chief Executive, as Accounting

Officer, that the LSB can fulfil its statutory duties within the proposed budget. The Chief Executive confirmed that the budget was sufficient to undertake necessary research and that forecasting was currently being undertaken for the coming years (beyond 2017/18);

- the ARAC had also considered future reporting of financial and performance.

21. The Board **AGREED** with the proposed changes to the business plan from consultation but asked that there be a clear communication on the on-going commitment of LSB to diversity within the legal profession despite the decision not to proceed with work on progression.
22. The Board noted that the transitional protections for special bodies' high level review had concluded that the indications were that there was no particular risk factor that suggested an urgent need to end the transitional period.
23. The Board requested that there be put in place a set of metrics which would be used to measure progress against the priorities and the key headlines within the business plan. The metrics could be reported back to the Board and ARAC separately or alongside existing reports.

**ACTION: To provide a set of metrics to measure progress against priorities and the key headlines within the business plan (JM/JP).**

24. The Board noted that reactions to the work programme had been positive. One common theme had been that both the LSB and the regulators should take account of the current political and economic climate. The Board noted the implications of Brexit for Central Government, but noted that they would still need to deliver day-to-day "business as usual" functions. As such, the LSB should continue to advise MoJ of areas where legislative change was needed to improve the regulatory framework.

25. **The Board AGREED:**

- **the LSB Business Plan and budget for 2017/18;**
- **to delegate authority to the Chairman and CEO to finalise the LSB's business plan and response to consultation for publication; and**
- **to defer work on transitional protections for special bodies.**

**Item 8            Tripartite operating protocol MoJ/OLC/LSB | Paper (17) 14**

26. The Board considered a draft tripartite operating protocol which had been discussed with the MoJ and OLC and noted:
  - the preferred wording around the LSB's use of statutory requirements;
  - the need to review the prevailing Memorandum of Understanding between OLC and LSB to ensure it remained up to date;
  - the need to check that the tripartite operating protocol aligned to the LSB's regulatory approach;
  - that the frequency of meetings between the OLC and LSB should be included;
  - the need to check the accuracy of the reference to consultation requirements around changes to Scheme Rules;
  - the behaviours required which would bring the principles set out in the protocol to life;
  - the Tailored Review's final report was expected in April and this may make recommendations which would then need to be incorporated within the operating protocol;



32. In relation to the CMA recommendation that the LSB “takes appropriate action where regulators fail to address information gaps” the Board considered that it was for the Executive to consider what would be appropriate action in due course and the Board would discuss this element of the recommendation at that point.
33. The LSB currently has an established process – the regulatory performance framework - for assessing the performance of frontline regulators. It was noted that the LSB would in the longer run seek to integrate its response to the CMA recommendation into its regulatory performance work.
34. **The Board AGREED to support the CMA recommendation directed to the LSB, including reporting publically “on the sufficiency of action plans published by regulators”. It AGREED not to use S55 notices in the first instance to obtain action plans from the frontline regulators, but to keep these powers in reserve.**

#### **Item 11 Cost of regulation | Paper (17) 17**

*Callum Armstrong and Chris Nichols attended the meeting.*

35. All the frontline regulators had now committed to publish voluntarily an annual cost statement on their individual websites. The Board considered both the OLC and SDT should also be asked to publish their own annual cost statements on their websites. The Chief Executive confirmed that they would be approached.
36. **The Board AGREED that as all the front line regulators have voluntarily agreed to publish a cost statement the LSB would close the project and set up monitoring for each of the regulators’ cost statements.**
37. The LSB would also publish an annual cost statement on its website.
38. An analysis of the front line regulators annual costs statements would be undertaken and brought to the Board next year.

**ACTION: An analysis of front line regulators annual costs statements would be considered by the Board next year (CA/CN/April 2018).**

*Callum Armstrong left the meeting*

#### **Item 12 Plan for development of LSB strategy 2018-2021 | Paper (17) 18**

39. Work is underway to develop the LSB’s three year strategy which would cover the period 2018-2021. It was proposed that after the July Board meeting there would be a separate session with the Board to discuss strategic themes. The Chairs of OLC and the Consumer Panel had been invited to attend. External speakers were scheduled to attend the April and May Board meetings to stimulate Board thinking on strategic issues. The Executive were asked to consider inviting in addition an individual or individuals involved in innovative business structures.
40. The Board noted:
  - the appointment process for a new LSB Chair was ongoing and whomever was appointed would ideally need to engage and consider the strategy before it was finalised;
  - the Tailored Review final report may incorporate actions to be considered when setting the future strategy;
  - the Cabinet Office had produced a horizon scanning tool kit;

- global trends and international views would also be useful insight;
- the Board away-day in 2016 had considered the 'theory of change' framework for the LSB's activities and this would be useful to consider again;
- the MoJ had recently developed its own 5 year Department strategy although the LSB was mindful of its independence from Government.

*Chris Nichols and Steve Brooker left the meeting.*

**Item 13 Minutes of the previous meeting**

41. The minutes of the meeting held on 18 January 2017 had already been approved via electronic correspondence and published on the website. The minutes would be signed by the Chairman as an accurate record.

**Item 14 Action tracker**

42. All actions were noted as on track, and all items had either been included on the agenda or are on the Board forward plan for future agendas.

43. **The Board noted the action tracker.**

*Michael Smyth left the meeting.*

**Item 15 Chief Executive's progress report | Paper (17) 19**

44. The CEO presented the CEO progress report, covering the period February to March and highlighted the following items:

- the proposed recruitment timetable for a new Chair to the LSB Board;
- Ministerial approval had been received to the reappointment of three members of the LSCP: Cathy Gallagher (2 years); Marlene Winfield (three years); and Michelle Goddard (three years);
- Ms Goldwag had attended a pre-employment scrutiny hearing before the Justice Select Committee on 22 March 2017. In its report, the Committee had supported her appointment. She had confirmed acceptance of the appointment for an initial period of three years commencing on 1 April 2017.
- Steve Green, Chair of OLC, and Professor Philip Plowden, OLC Member would be leaving the OLC on 31 March 2017;
- publication of the final Tailored Review report has been delayed and was now expected at the end of April. [REDACTED]
- [REDACTED] [FoilA exempt: s36] Alison Wedge, Deputy Director and Head of the ALB Governance and Claims Management Regulation Division of MoJ would be attending the April Board meeting.
- the Chief Executive, with Julie Myers, had met the MoJ to consider the assessment of risk for the LSB as a whole, which is currently at level 1, the lowest level;
- the LSB investigation into the internal governance arrangements between the TLS and SRA is ongoing;
- an update on the activity of the UK regulators network (UKRN), of which the LSB is an observer member;
- the implementation of QASA remains on hold.

45. The Chief Executive would be visiting the Devon and Exeter Law Society next week.

46. **The Board noted the contents of the Chief Executive's progress report.**

**Item 16 Finance report | Paper (17) 20**

47. Edwin Josephs provided a report on the current LSB finances. The forecast showed an underspend of approximately £400k for the current year. The MoJ had confirmed, via email, that the LSB had *authority to spend* from 1 April 2017. A formal budget delegation letter from the MoJ would follow.

48. **The Board noted the finance report.**

**Item 17 Report of Remuneration and Nomination Committee (RNC) on 8 February 2017 | Paper (17) 21**

49. The Chair of RNC noted the items that had been discussed at the Committee’s meeting in February and highlighted the work that the executive would be undertaking to benchmark the LSB’s parental benefits.

50. **The Board noted the contents of the RNC report.**

**Item 18 Report of Audit and Risk Assurance Committee (ARAC) on 10 March 2017 | Paper (17) 22**

51. The ARAC annual self-assessment report to the Board on its activities during the financial year would be brought to the Board in April.

52. **The Board noted the contents of the ARAC report.**

**Item 19 Any other business**

There being no further business the meeting closed at 4.55 pm.

**BOARD PRIVATE SESSION**

Board Members held a private session.

**Date of next meeting**

The Board would next meet on 28 April 2017 at 10 am. The meeting will be held on the 13th Floor, MRC’s Office, One Kemble Street, London WC2B 4AN.

Signed as an accurate record of the meeting

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Date  
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