

Notes of an informal meeting of members of the Legal Services Board (LSB) and of a formal Board meeting on 21 September 2017

Date: 21 September 2017
Time: 13:15 – 14:20 (informal)
14:20 – 15:50 (formal)
Venue: Meeting Room 1, 2nd Floor, ORR, One Kemble Street, London WC2B 4AN

Present: Dr Helen Phillips Interim Chair
(Members) Neil Buckley CEO
Terry Babbs
Jemima Coleman
David Eveleigh
Marina Gibbs
Jeremy Mayhew
Catharine Seddon (from 14:20)
Michael Smyth CBE QC (Hon)

In attendance: Julie Myers Corporate Director (minutes)
Nick Glockling Legal Director
Caroline Wallace Strategy Director

In attendance for specific agenda items:

Bryony Sheldon Regulatory Policy Manager
Chris Nichols Regulatory Policy Manager
Kate Webb Head of Regulatory Reviews and Investigations
Jenny Prior Business Planning Associate

Observer: Gabrielle Stewart Regulatory Associate

Item 1 – Welcome and apologies

1. The Interim Chair welcomed those present and in attendance to the meeting, in particular Gabrielle Stewart who was attending as an observer. In opening the meeting, the Interim Chair asked that thanks to Toni Whitby, the LSB's departing Corporate Governance Manager, be minuted.
2. Catharine Seddon would be joining the meeting by telephone at 14.15 and the meeting would become quorate at that point. Apologies from Edwin Josephs, Director of Finance and Services, were noted.

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

2. There were no declarations of interest.

Item 3 – Paper (17) 57 - Chief Executive’s progress report

4. The Chief Executive presented his progress report for the period from July to September covering, specifically, the following points:
- The advice from the Ministry of Justice that advertising for a permanent Chair for LSB was due to commence imminently.
 - The recent meetings between:
 - The LSB Interim Chair and CEO and Lord Keen
 - Members of the LSB and members of the Bar Standards Board
 - The addition of a horizon-scanning element to the CEO report, which, if feedback was positive, would form part of the regular CEO report to each Board meeting.
5. Members thanked the CEO for his report and noted that:
- The horizon scanning report was welcome and confirmed the range of issues facing the legal sector, many of which would have implications for the LSB’s work. Members asked that thought be given to the nature of statistics presented to them and expressed an interest in understanding whether, while sector revenue appeared to be growing, there was growth or consolidation in the number of firms. **ACTION: The CEO agreed to provide a report on consolidation at the October 2017 meeting**
6. **Members noted the Chief Executive’s progress report.**

Item 4 – Paper (17) 58 – Reviewing the IGRs

7. Members welcomed Bryony Sheldon to the meeting and noted that the paper built on one previously considered by the Board in July 2017. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
8. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

14. Members welcomed Steve Brooker and Chris Nichols to the meeting and provided their views on the draft strategy document. The following points arose in discussion:

- The brevity of the document was commended
- The extent to which the strategy needed to draw out more clearly the focus the Board places on the public interest, alongside the consumer interest. In particular, could the strategy more clearly articulate how work to address consumer access and choice, pricing, innovation in service delivery and the removal of regulatory barriers, supported the 'social contract' and helped to underpin the rule of law?

[Catharine Seddon joined the meeting by telephone at 14:20pm, delivering a quorum and enabling the Board to meet formally from this point.]

- Whether there were ways to ensure the proposed strategic objectives were sufficiently clear that the LSB was keen to be agile and forward-facing, for instance, in responding and anticipating emerging regulatory issues around pace of change of technology
- The need for key statistical data to be identified, including time series data that showed the impact the LSB was having in pursuing its strategic objectives.
- The need to ensure there was adequate focus on the LSB's role in securing effective redress mechanisms.

15. **Subject to points raised in discussion being addressed by the executive, the Board agreed that the draft strategy could be used for informal consultation with stakeholders.**

Item 7 – TLS/SRA investigation update

16. The Board welcomed Kate Webb and noted an update on the investigation into matters concerning the Law Society and the Solicitors Regulation Authority.

Item 8 – Paper (17) 61 – Measuring performance

17. The Board welcomed Jenny Prior to the meeting. The Board discussed the paper, which was prepared in response to a Board request for some thought to be given to the way in which progress against priorities and the key headlines within the business plan was measured, and reported to the Board. The paper proposed a dashboard, collated from current performance measures, and further work to consider how far regulator developments, and changes in key outcomes in the sector, could be tracked back to LSB interventions.

18. In discussion, the Board noted:

- The need for any LSB performance framework to include key market metrics, noting the period over which these might be seen to change could be some years

- Whether there was a way of benchmarking LSB performance in terms of delivering market impact against that of other regulators and in terms of its approach to measuring its own impact and performance
- The importance of taking a dynamic approach to being 'on track', what might have been the appropriate timeline at the start of a year might not be in light of developments mid-way through a year
- [REDACTED]
[REDACTED]
[REDACTED] [FoIA exempt s36]

19. The Board concluded that the LSB's current performance measurement approach was strong on market trends and project progress but needed more focus on evaluating outcomes and impact. Members noted that the Audit and Risk Assurance Committee would be considering the development of an assurance framework at its October meeting.
20. The Board agreed that there was no need to pursue the approach proposed in the paper unless the executive found it useful, and asked that the future focus should be on the development of a more comprehensive approach to performance assessment.

Item 9 – Paper (17) 62 – Recommendations of the Tailored Review

21. The MoJ's Tailored Review report into the LSB and OLC had been published in July 2017 and had made a number of recommendations to the LSB, OLC and MoJ. The Board noted the welcome confirmation of the continuing need for the LSB and of its effectiveness.
22. The Board endorsed the proposed response to each recommendation made to it and agreed to a response to MoJ being prepared on these lines.

Item 10(a) – Paper (17) 63 – OLC budget variation request

23. The Board welcomed Kate Webb to the meeting. The Interim Chair set out the context for the budget uplift request from OLC, which had arisen as a consequence of a MoJ uplift to the OLC's budget for inflation and the apprenticeship levy. Whilst these amounts had been factored into the OLC's original budget as approved by the LSB, the OLC sought permission from the LSB to access the additional sum.
24. The Board discussed the unusual circumstances of this request and noted the prior assurances given by OLC as to a downward budget trajectory.
25. **The Board agreed to approve the requested budget variation (from £14.63m to £14.845m).**

Item 10(b) – Paper (17) 64 – Review of MoU between LSB and OLC

26. The LSB and OLC had agreed a Memorandum of Understanding in 2009. The Board had agreed that it should be reviewed in light of the agreement of the Tripartite Operating Protocol (TOP) and the findings of the Tailored Review. A review of the MoU had taken place, stripping out duplication with the TOP, refreshing terminology and making clear the commitment to working well together so as to deliver the greatest impact on the legal sector.
27. The Board asked that the executive check:
- That the TOP captured all aspects of performance oversight that had been removed from the draft revised MoU;
 - That the references to meetings were accurate.
28. **The Board agreed the draft MoU in principle and agreed to delegate the decision to agree the revised MoU to the CEO and the Chair of ARAC.**

Item 11 – Minutes of the previous meeting 19 July 2017

29. The Board noted that these minutes had been agreed in correspondence.

Item 12 – Action tracker

30. The action tracker was noted.

Item 13 – Items considered out of Board

31. The Board noted that the Board had made three decisions by correspondence, out of Board meetings, due to timing constraints and as permitted by Rule 3.7.2 of the Board's Rules of Procedure. These decisions were:
- In June 2017 – The Board agreed to the recommendations of Paper (17) 44 - ICAEW applications for designation as an approved regulator and licensing authority for reserved legal activities namely:
 - To determine (under paragraph 14(1) of Schedule 4 to the Act) the ICAEW's application for a recommendation to the Lord Chancellor for designation as an approved regulator for further reserved legal activities.
 - To approve the proposed regulatory arrangements (which will come into effect in the event that a designation order is made).
 - If the first application is granted, to determine (under paragraph 12(1) of Schedule 10 to Act) the ICAEW's application for a recommendation to the Lord Chancellor for designation as a licensing authority for further reserved legal activities.
 - To approve the proposed licensing rules (which will come into effect in the event that a designation order is made).

- In July 2017 – on the basis of a recommendation from the Remuneration and Nomination Committee, to make an annual pay award for the Chief Executive
- In September 2017 – The Board agreed to the recommendations of Paper (17) 56 Section 69 Order to modify the functions of the General Council of the Bar namely:
 - to approve publication of the response document
 - to agree to make a recommendation to the Lord Chancellor that he makes an Order under section 69 of the Act to modify the functions of the Bar Council.

Item 14 – Paper (17) 65 - Finance Report for August 2017

33. The Board noted the Finance Report.

Item 15 – ARAC report of 15 September 2017 meeting

34. The ARAC Chair reported on the Committee’s discussion as to the effectiveness of LSB’s approach to assuring itself of the performance of OLC and the Committee’s agreement to a new formulation of corporate risks relating to OLC.
35. The Board noted the context for the discussion including: discussion of objectives for the OLC Chair; the arrival of a new CEO; the agreement of the TOP and the outcome of the Tailored Reviews; and the OLC’s own work to develop a new balanced scorecard.
36. The Board noted that the Committee had discussed a comprehensive paper that had explored: the statutory relationship; the limits of the LSB’s powers and the hard and soft levers available to it (including the LSB’s role in appointing the OLC Board, approving the budget and consenting to scheme rules). A substantive element of the discussion had concerned ‘what good looks like’ and it was the advice of the Committee to the Board that a shared vision of what good looks like should be developed with OLC. This would build on remarks made by the OLC Chair at the Board’s July meeting.
37. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [FolA exempt s36]
38. The Board broadly endorsed the principle of the approach and agreed to delegate the final decision on how this should be broached with OLC to the Interim Chair and Marina Gibbs.

39. The ARAC Chair confirmed that the Committee had endorsed the reformulation of two risks relating to LSB, subject to comments, and that these would be reviewed formally by the Committee at its October meeting.

Item 16 – Reflections / forward look

40. The Board welcomed the changes introduced to the agenda for this meeting (and future meetings).

Item 17 – Any other business

34. There was no other business

The meeting closed at 15:50pm

JM, 21/09/17

Signed as an accurate record of the meeting

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Date

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