

## Minutes of the Legal Services Board (LSB) meeting held on 24 October 2018

**Date:** 24 October 2018

**Time:** 13:00 – 13:30 (Board private session)  
13:30 – 17:00 (Board meeting)

**Venue:** 2<sup>nd</sup> floor, One Kemble Street, London WC2B 4AN

**Present:** Dr Helen Phillips Chairing the meeting  
**(Members)** Neil Buckley Chief Executive  
Terry Babbs  
Jemima Coleman  
David Eveleigh (except items 4 and 5)  
Marina Gibbs (from item 4)  
Jeremy Mayhew (from item 12)  
Catharine Seddon  
Michael Smyth CBE QC (Hon)

**In attendance:** Sally Al-Saleem Policy Manager (observing)  
Lynn Andrews Director of Nursing and Patient Care,  
Chesterfield Royal NHS Trust (observing)  
Tim Borthwick Regulatory Policy Associate (observing)  
David Fowlis Policy Manager (observing)  
Chris Nichols Interim Policy Director  
Steph North Corporate Governance Manager (minutes)  
Holly Perry Head of Corporate Services  
Danielle Viall Senior Legal Adviser  
Caroline Wallace Strategy Director

### In attendance for specific agenda items:

Jenny Brenton Interim Legal Adviser (item 8)  
Steve Brooker Head of Research and Development (items 4, 6  
and 13)  
Giorgio Castellano Research Associate (item 6)  
Rob Cross Research Manager (item 6)  
Angela Latta Regulatory Policy Principal (item 8)  
Vincent McGovern Communications Manager (item 5)  
Craig Wakeford Regulatory Policy Associate (item 8)

### External attendance:

Suki Binjal Hackney Council (item 12)  
Ed Nally President, Solicitors' Disciplinary Tribunal (SDT)  
(item 13)  
Geraldine Newbold Clerk and CEO, SDT (item 13)

## BOARD MEETING

### Item 1 – Welcome and apologies

1. The Chair welcomed those present and in attendance to the meeting, in particular members of the executive who were observing the meeting, and Lynn Andrews, Director of Nursing and Patient Care, Chesterfield Royal NHS Trust, attending the meeting in an observer capacity.
2. No apologies had been received.
3. [REDACTED]  
[REDACTED]  
[REDACTED] [FoIA exempt s22]

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

4. There were no declarations of interest relevant to the business of the Board.

### Item 3 – Paper (18) 47 - Chief Executive's progress report

5. The Chief Executive presented his progress report for the period September to October 2018, drawing the Board's attention in particular to the following points:
  - The OLC's October voluntary assurance report had been circulated by email to Board members earlier on 24 October; which the Board formally **noted**;
  - The Chief Executive had a successful visit to the OLC on 15 October. [REDACTED]  
[REDACTED] [FoIA exempt s36(2)(c)]
  - The Chief Executive had participated in a business assurance meeting with the OLC at the Ministry of Justice; the Board welcomed the fact that these meetings were taking place, and that there had been a focus on performance;
  - The executive had met the day before for a strategy away-day. Colleague attendance was good, and a robust discussion of the proposed five-year policy objectives had taken place. The afternoon session focussed on an exploration of preferred ways of working using the Myers Briggs framework – there had been a lively discussion on positive culture and behaviours;
  - The Board welcomed the update from the Chief Executive that a paper would be brought to the November meeting with a proposal for how and at what level the LSB should engage with the Mayson review of legal services; **Action: Chair and Chief Executive to meet Prof Stephen Mayson ahead of the November Board meeting**;
  - The Board noted the outcome of the LSB's recent bids to the Regulators' Pioneer Fund, that feedback had not yet been received but was expected imminently, and expressed disappointment about the outcome on this occasion; it was suggested that future bids could be considered on the issue of declining service innovation;



- [Redacted]  
[Redacted]  
[Redacted]  
[Redacted] **[FOIA exempt s36(2)(b)(i)]**

10. The Board **agreed** ongoing competence, technology and PLE as the three five-year policy objectives. Resources and messaging would be focussed on these areas, notwithstanding work as part of business as usual. The Board **noted** the next steps, in particular welcoming the opportunity to comment on the next iteration of the agreed objectives in the upcoming draft business plan.

**Item 5 – Paper (18) 49 – Approach to communications**

11. The Board welcomed Vincent McGovern to the meeting, noting thanks for the paper which was a helpful steer towards a refreshed approach to communications priorities for the next five years. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted] **[FOIA exempt s36(2)(b)(i)]**

12. The Board considered the paper and the following points were raised in discussion:

- The issues with the LSB website were of concern. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
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- [Redacted]

13. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted] **[FolA exempt s36(2)(b)(i)]** The Board **noted** the next steps, in particular that a further paper would be presented to the Board in January.

**Item 6 – Paper (18) 50 - Innovation research presentation**

14. The Board welcomed Rob Cross to the meeting. The research was a repeat of the innovation survey carried out in 2015. The three year comparison allowed a review of how successful the objective to increase innovation in the legal services market had been, and demonstrated the robustness of the original research. The plan was to launch publicly the research at the Legal Futures innovation conference on 29 November 2018. The following findings were highlighted:
- The level of use of technology in the legal sector was not especially high. 8% of providers said they offered online services – that is, actual services online beyond simply using email;
  - 15% of providers are, or were planning to use, digital comparison tools;
  - There had been falling levels of investment in technology since 2015;
  - 20% of providers used automated document assembly;
  - HM Land Registry was at the forefront of using blockchain for conveyancing;
  - There had been no significant increase in legal sector innovation in the past three years: in some areas, there has been a decrease. However, relevant wider context was a wider fall in innovation in other sectors between 2013-16;
  - There had been a reduction in the number of law firms pursuing innovative ideas to deliver services;
  - Some of the benefits of using technology included increased speed and subsequent increased revenue;
  - There was broad agreement that tech could make it cheaper to deliver legal services. However almost 50% of respondents though the benefits of tech were overstated;
  - ABS were more likely to use technology than any other types of provider;
  - Respondents were 1.4x more likely to use tech if they were regulated by the SRA;
  - On service innovation, the more employees an organisation had, the more likely it was to introduce new services;

- On regulatory barriers to innovation, there had been a significant increase in respondents saying regulation was not limiting their innovation and ability to deliver new services.
15. The Board considered the research findings, and made the following observations:
- It was positive that regulatory barriers to innovation were felt to have decreased, although there was no room for complacency – there was an opportunity to consider the communications strategy for the research findings accordingly;
  - There was a sense that the main barrier to innovation was a cultural one. Thought needed to be given as to how the LSB’s five-year policy objectives might help to break down that barrier. Work could be done to share best practice on how to overcome common barriers and to showcase examples of best practice;
  - The conclusions drawn could be perceived to be overly-gloomy. For example, since the research shows that larger firms primarily serving large clients were the most innovative, if the analysis was based on market share it might show a more positive story.
16. The Board **noted** the research findings, and thanked to the team for an excellent piece of work. The executive was invited to consider how the results could be best utilised via stakeholder engagement in the coming months.

**Item 7– Paper (18) 51 - SRA ‘looking to the future’ rule change application**

17. The Chair welcomed Paul Greening to the meeting. The Chair confirmed that the Board would make the decision on the application, assuming the delegated decision from the Chief Executive.
18. Paul provided an overview of the paper, which recommended that the Board approve the application in full. The executive made this recommendation following detailed analysis and a thorough consideration of risks and key concerns raised during the SRA’s consultation period and during the application period.
19. The Board considered the application and discussed the various issues highlighted in the paper. The discussion was wide ranging and encompassed the risks and benefits of the proposed changes. The Board considered all the relevant documents, including representations from stakeholders and others as appended/referred to in the paper. Taking all matters into consideration the Board **approved** the application in full and **delegated authority** to the Chief Executive to finalise the Decision Notice.

20. [REDACTED]
- [REDACTED]
  - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



### Item 8 – Paper (18) 52 – Internal Governance Rules - final draft review

22. The Chair welcomed Angela Latta, Craig Wakeford and Jenny Brenton to the meeting, noting thanks to the team [REDACTED] [FoIA exempt s36(2)(b)(i)] The paper contained the draft new Internal Governance Rules and accompanying guidance, which had been drafted following engagement with the Board leads for this area. The guidance was presented here for the first time. Comments on the guidance were welcomed offline, and it was anticipated that Board approval for the final version of the guidance would be sought at the end of the consultation period, which was to be twelve weeks.
23. The following points were raised in discussion:
- [REDACTED]
  - [REDACTED]
  - [REDACTED] [FoIA exempt s36(2)(b)(i)]
24. The Board **approved** the final draft IGR, subject to comments raised, and delegated authority to the Chief Executive to approve the revised documents for publication. The Board also **agreed** the next steps, with an update at the January Board meeting and a further paper to follow with the proposed final IGR and Guidance documents once the consultation had closed and responses had been analysed.

### Item 9 – Paper (18) 53 - Report of 2 October 2018 ARAC meeting

25. The Board considered the 2 October ARAC report which was presented by Terry Babbs as Chair of ARAC. A second iteration of the 2019/20 LSB budget paper had been circulated to ARAC for review. More information was required on the cost of IT transformation, in particular. An out-of-committee discussion was planned in early November, and a recommendation would come to the 29 November Board meeting for approval.
26. The Board **noted** the 2 October ARAC report.

### Item 10 – Paper (18) 54 - Finance report for September 2018

27. The Board reviewed and **noted** the latest Finance Report.

### Item 11 – Q2 performance report

28. The Board reviewed and **noted** the Q2 performance report.

## Item 12 – External speaker presentation – Suki Binjal

29. The Chair welcomed Suki Binjal to the meeting. Suki is the Legal Director at Hackney Council, and was speaking in her capacity as President of the Lawyers in Local Government Association, a position she had held since 2017.
30. Suki spoke to the Board about her work to date, and on some of the challenges facing in-house public lawyers. Points raised included:
- Lawyers in Local Government was a membership body representing around 6,500 public sector in-house lawyers, from 97% of local authorities. It was formerly under The Law Society umbrella. Memberships allow members to share good practice, attend conferences, training opportunities, mentoring and information sharing were all benefits of membership; LLG supports, connects and nationally champions the voice of Lawyers that work in Local Government;
  - Succession planning for in-house lawyers was important. Entry level recruitment was strong, but there were few opportunities for in-house colleagues to lead teams unless they were at the very top of their organisation;
  - The public sector landscape had changed significantly in the past ten years; budget reductions had led to a review of which services should be delivered and how they could best be delivered – collaboration, shared services and outsourcing were all possible options;
  - Local government is considered to be an exemplar of good governance;
  - A commercial model for delivery of legal services in the public sector on a near to zero working budget was very difficult to achieve in reality;
  - In-house risk appetite was generally increasing as innovative new solutions for clients were sought;
  - Resilience needed to be supported – the health and wellbeing of staff was imperative amongst the changing way of work and service delivery;
  - Horizon scanning was getting harder - funding was not guaranteed year on year, budgets were therefore constantly changing. Uncertainty around EU exit also added challenges to forward planning;
  - A single entity regulator was an area of interest to Lawyers in Local Government, on the basis that it was felt that the current regulatory framework is not entirely fit for purpose for in-house Public Sector lawyers.
31. The Board thanked Suki for her presentation. This was followed by a short question and answer session. Points raised included:
- The changing nature of routes to qualifying as a solicitor in a local authority, with fewer traditional traineeships, and where there is an increasing level of entry via apprenticeships and CILEX qualified entrants who are able to qualify ‘on the job’;
  - There had not been a major shift away from litigation in local authorities – it was still undertaken where there was a reasonable prospect of success and in the public interest to do so;
  - Kent Council ABS –suggested perhaps in future the need to grow similar models slowly.

### Item 13 – Paper (18) 55 Solicitors Disciplinary Tribunal budget 2019

32. The Chair welcomed Ed Nally and Geraldine Newbold to the meeting, with congratulations to Geraldine on her appointment as permanent Clerk and Chief Executive of the Solicitors Disciplinary Tribunal.
33. Ed Nally introduced the paper, which set out the SDT's proposed budget for 2019/20. An increase of 10.3% was sought which was attributable to the projected increase in cases in the coming year – which itself was reflective of more robust information being shared by the SRA. Last year, 300 sittings days were predicted. For next year, this figure was expected to be 406 days. Had there been a static number of days predicted, the like-for-like budget proposal would have shown a 0.3% reduction. The output for 2018/19 was anticipated to be very close to the predicted number of days - no more than five or ten days either side of the expected number of cases. Salary costs, number of member sitting days and office costs also fed into the headline figure. There were two main types of case expected in the coming year: standard cases – which typically involved 2.1 sitting days – and sexual misconduct cases – which typically involved just over three sitting days. Between ten and twenty cases were going through the SRA's enforcement section presently which would equate to a further sixty sitting days next year. [REDACTED]  
[REDACTED] [FOIA exempt s41]
34. Board members considered the budget paper, and the following points were raised in discussion:
- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[FOIA exempt s36(2)(b)(i)]
  - It was confirmed that any surplus in the budget was returned to the profession in the form of a reduced contribution the following year: the cost to each regulated solicitor was in the region of £21 per year;
  - The inclusion of budget principles was welcomed;
  - It might be helpful to develop a policy on reserves with a built-in contingencies element to help drive budget discipline across the organisation **Action:** Steve Brooker to pick up with SDT ahead of next year's budget;
  - It was queried whether there was any way of knowing whether meeting the anticipated number of sitting days was due to better information from the SRA, or chance. The SDT responded that the flow of information between themselves and the SRA was improving, although never likely to be 100% accurate. Cases could get delayed for a number of reasons, however the SDT thought there was no longer a discrepancy in the predicted number of cases and the actual figures. Clerks used case management data to challenge the robustness of the estimated number of sitting days, and to ensure they were realistic as far as possible;
  - It was acknowledged that only four courts were currently operated by the SDT. The SDT was encouraged to learn from other regulators and disciplinary

tribunals on approaches to scheduling extra listings to help reduce the number of lost court days;

- There was a brief discussion of the lessons learned in relation to the Leigh Day case.

35. Taking into account the comments raised in discussion, the Board **approved** the SDT's proposed budget of £3,223,194 for 2019/20.

#### **Item 14 – Minutes of previous meetings 20 September 2018 and 11 October 2018**

36. The 20 September Board meeting minutes had been **agreed** by circulation. The 11 October Board meeting minutes were **approved**.

#### **Item 15 – Board action tracker**

37. The Board reviewed and **noted** the action tracker.

#### **Item 16 – Forward look / reflections**

38. The Board **reviewed** the agenda for the next Board meeting, to take place on 29 November in Cardiff, noting that alternative chairs for the roundtable event were being considered following Lord Thomas' withdrawal from the event due to clashing travel arrangements.

39. On the substantive Board meeting agenda, it was suggested that some items could be dealt with out of committee: the Board agreed that the annual review of the LSB Governance Manual and annual review of the LSB Health and Safety Policy could be dealt with by correspondence.

40. The Board next **reflected** on the meeting, making the following comments:

- It had been a positive meeting, with a full agenda and discussion;
- Some of the papers had been (necessarily) long;
- A suggestion was made to add page numbering to the full Board pack, rather than individually in each paper. **Action: executive to check whether this was possible and action for the next Board pack.**

#### **Item 17 – AOB**

41. It was noted that charity quiz to raise money for the London Legal Support Trust would be taking place in the office from 17:00 on 1 November. All colleagues – Board and executive - were encouraged to attend.

42. There was no other business and the meeting closed.

SN 30/10/18

Signed as an accurate record of the meeting

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Date  
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