

To:	Legal Services Board		
Date of Meeting:	29 November 2018	Item:	Paper (18) 65

Title:	Mayson Review		
Workstream:	Strategic development		
Author:	Steve Brooker, Head of Research and Development		
Introduced by:	Caroline Wallace, Strategy Director		
Status:	Official		

Summary:

The paper proposes how the Board may wish to engage with Professor Stephen Mayson's Independent Review of Legal Services Regulation and summarises the early outputs of his work.

It is proposed that:

- a) the Board proactively engage with Professor Mayson at key milestones in his review through a mixture of bilateral meetings and by inviting him to attend future board meetings
- b) a lead board member be nominated to attend these meetings and maintain general oversight of this work
- c) the Board keep under consideration whether it may wish to develop/reiterate (and potentially publish) a formal position or positions on any matters raised during Professor Mayson's review and/or once Professor Mayson's final report is published.

As wider context and because there is considerable overlap in the issues explored in it and Professor Mayson's review, the main findings of Esther Robertson's independent review of legal services regulation in Scotland are also summarised.

Annexes

Annex A: Summary of Mayson Review early outputs

¹ *A vision for legislative reform of the regulatory framework for legal services in England and Wales* September 2016
https://www.legalservicesboard.org.uk/news_publications/LSB_News/PDF/2016/20160909LSB_Vision_For_Legislative_Reform.pdf

Annex B: Summary of the Report of the Independent Review of Legal Services Regulation in Scotland

Recommendation:

The Board is invited to agree the following key elements of an approach to engaging with the Mayson Review:

- Engage through a mixture of bilateral meetings and by inviting Professor Mayson to attend future board meetings at appropriate stages of his review
- Nominate a board lead for this work
- Keep under consideration whether it may wish to develop/reiterate (and potentially publish) a formal position or positions on any matters raised.

Risks and mitigations

Financial: N/A

Legal: N/A

Reputational:

Resource:

Consultation	Yes	No	Who / why?
Board Members:	X		The Chair and CEO are due to meet with Professor Mayson before the board meeting.
Consumer Panel:		X	Professor Mayson will engage separately with the LSCP. A former chair of the LSCP is a member of the review's advisory panel.
Others:			

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires
Summary box third para Risk box, all of reputational	Section 36(2)(b)(i): intended to promote a free and frank exchange of views for the purposes of deliberation by the Board	N/A

and resource text Para 7, second sentence Paras 12-15 Annexes A and B		
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LEGAL SERVICES BOARD

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Mayson Review

Background / context

1. During 2015 Professor Stephen Mayson chaired LSB-facilitated cross-regulator discussions to explore different options available for a new legislative framework for the regulation of legal services beyond the Legal Services Act (the Act). The product of these discussions was a paper, which was published by the LSB and shared with Ministers, outlining options for the future development of legal services regulation. It is colloquially known as the 'legislative options paper'.
2. In 2016, assisted by Professor Mayson, the LSB developed and published its own vision for reform by addressing each of the areas in the above legislative options paper.
3. In December 2016 the Competition and Markets Authority (CMA) published the findings of its legal services market study. This concluded that the current framework may not be sustainable in the long-term and recommended to the Ministry of Justice that it should review the current regulatory framework. In its response, published in December 2017, the government felt unable to commit to a formal review at that time, but agreed that it would continue to reflect on the potential need for such a review, particularly as the market develops following the steps taken by the regulators to improve market transparency, as recommended by the CMA.
4. It is in this context that in July 2018, Professor Mayson, under the sponsorship of the Centre for Ethics & Law at University College London, announced a fundamental review (the Review) of the current regulatory framework for legal services in England and Wales. Professor Mayson's starting point is to provide his views in relation to the key questions identified in the 2015 legislative options paper, namely:
 - Why should we regulate legal services? (Rationale)
 - What are the legal services that should be regulated? (Scope)
 - Who should be regulated for the provision of legal services? (Focus)
 - How should we regulate legal services? (Structure)
5. Professor Mayson has published provisional working papers on the first two topics, plus an assessment of the current regulatory framework. A summary of these three initial outputs is provided in **Annex A**.

6. In parallel, the Scottish Government commissioned Esther Robertson to carry out an independent review of legal services regulation in Scotland. Her report was published in November 2018 and its key findings are summarised in **Annex B**.

Proposed engagement approach

7. At its last meeting, the Board asked for a proposal for how and at what level the LSB should engage with the Review. [REDACTED]
[REDACTED]
[REDACTED].
8. Professor Mayson has announced that the Review will proceed in three stages:
 - Publication of three working papers in October 2018 (completed). These papers will form the basis of meetings and discussions during Autumn 2018
 - The second stage, starting in February 2019, will see the publication of updates to the first three working papers, along with the publication of the final two working papers. Further meetings, discussions and submissions will then take place in the first half of 2019
 - The third stage will see the publication of updates to all the working papers, along with an interim report with findings and conclusions, planned for September 2019. These will be followed by further meetings and discussions during the Autumn, and the final report should be published and submitted to the Ministry of Justice in early January 2020.
9. The Chair and CEO are due to speak to Professor Mayson before the board meeting so the following is subject to the outcome of this discussion.
10. It is proposed that the Board proactively engages with Professor Mayson at key milestones in the Review through a mixture of bilateral meetings and by inviting him to attend future board meetings. With the Review timetable in mind, the Board could use the strategy session at its 'reserve' meeting on 28 February to consider policy issues arising from the full suite of working papers. The Board may wish to invite Professor Mayson to attend for part of this discussion. Alternatively, or in addition, the Board may wish to invite Professor Mayson to attend its October 2019 meeting once his full interim conclusions have been published.
11. We suggest that a lead board member is nominated to attend meetings and maintain general oversight of this work. We also suggest that the Board keep under consideration whether it may wish to develop/reiterate (and potentially publish) a formal position or positions on any matters raised during the Review and/or once Professor Mayson's final report is published.

[REDACTED]

12. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

13. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

14. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

15. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Analysis of the review of legal services regulation in Scotland

16. Briefly, there are clear parallels between Esther Robertson’s conclusions and the LSB’s vision document, most notably around the future institutional framework. The next step is for the Scottish Government to respond to the report. Should the report be enacted as envisioned by the author, this is likely to create additional momentum for bold change in the England and Wales jurisdiction.

Next steps

17. Depending on the outcome of the Board’s discussion:
- we will invite Professor Mayson to attend the 28 February Board meeting. Should the next tranche of his papers not be available in time, we will need to reschedule to the April meeting; and
 - the Chair can identify a Board lead

- the Board can keep under consideration whether it may wish to develop/reiterate (and potentially publish) a formal position or positions on any matters raised during the Review.

18. We will continue to engage with Professor Mayson through bilateral discussions.