



Meeting: Legal Services Board, 16 July 2019

Item: Paper (19) 32 - CEO Progress Report - July 2019

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Status: Official

Introduction

This paper updates Board Members on key developments across the organisation since the 4 June 2019 meeting. The Board's attention is drawn, in particular, to the following matters on which updates are provided:

- The office move update – [REDACTED]
- An update following submission of a letter from the Junior Lawyers Division of The Law Society to the Justice Select Committee regarding the SQE
- [REDACTED]

Recommendation

The Board is invited to **note** this report.

Background

There was no consultation as this paper is a routine report.

Annexes

Annex A: OLC voluntary assurance letter

Annex B: Horizon scanning report

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Reputational:	N/A
Resource:	N/A

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Introduction, first and third bullet points	Section 36(2)(b)(ii): release of information likely to inhibit the exchange of views for the purposes of deliberation	
Para 2, first and second bullet point	Section 40: personal information	
Para 3, end of first sentence Para 7, as highlighted	Section 36(2)(b)(ii): release of information likely to inhibit the exchange of views for the purposes of deliberation	
Para 17	Section 36(2)(c): release of information likely to prejudice the effective conduct of public affairs	
Para 34	Section 36(2)(b)(ii): release of information likely to inhibit the exchange of views for the purposes of deliberation	
Para's 36-40	Section 36(2)(c) : release of information likely to prejudice the effective conduct of public affairs	

CEO Progress Report - July 2019

Ministry of Justice (MoJ) matters

Appointment matters

LSB Board members

1. The RNC met on 5 July and considered the requirements for the next round of recruitment for new Board members. An oral update is being provided by the Chair of RNC later on the agenda. A follow up meeting with MoJ's Public Appointments Team takes place on 15 July to start work on the campaign.

Colleague and organisation matters

2. The following new colleagues will be joining us later in the summer:

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

Governance

Office move

3. On 26 June we received written approval from the Office of Government Property in support of the proposal for the LSB to move [REDACTED]. This was the last formal approval stage we have to go through.
4. We are now pressing ahead with work on the draft contract subject to further information and clarification. The Licence to Alter is being worked on at the same time. This is now a high priority area for action – the landlords will not start work on the demise until the contract is signed.
5. The move team are meeting regularly with the design and build contractors assisted by the Farebrother project manager. The layout of the office is now near final and the design elements are currently being worked through with a colleague representative design group. We are aiming to have the design fully agreed by mid-July so that furniture with longer lead times can be ordered in plenty of time. The intention is that all the works should be completed in time for an end of October move date.

6. We are currently in discussions with several audio visual suppliers to provide the equipment required for the new office. We currently have a good idea of our requirements but still need to agree the specifics. The BT line is in the process of being ordered and has a lead time of between 40-44 working days and so should be installed by mid-September, therefore allowing sufficient time to ensure connectivity before we move in late October.
7. During June, we conducted a second round of 1-1s with most colleagues. We wanted to find out three things: (a) now that we know we were going to [REDACTED] [REDACTED] what impact this would have on colleagues' travel time. For 11 colleagues, the journey time will be the same, or less. For 5 colleagues, their journey time will increase by approximately 5 minutes, and for 8 colleagues their journey time will increase by 10-15 minutes. Two colleagues will also need to get the tube, currently they walk from their mainline station; (b) we also wanted to ascertain how colleagues felt about hot-desking. The majority of colleagues asked are content to hot-desk, though for a small minority, this will be a difficult transition; and (c) we asked colleagues whether they felt that they were sufficiently involved throughout the process and whether they thought that levels of engagement and communication were adequate - all colleagues felt that they were adequately involved and that the engagement and communications was at the right level.

IT transformation

8. On 30 June, responsibility for supporting the LSB's infrastructure transferred from CoopSys to TIG, our new managed service provider, following a two week period of shadowing.
9. In terms of the wider transformation project, we were unable to secure the legal permissions necessary to increase network bandwidth at One Kemble Street from current speeds of 10 MBps to 100 MBps. This was considered a key dependency for upgrading to Office 365 before the original project deadline of 30 June, and on the basis of this advice, the upgrade was postponed. Since the decision to postpone was made, TIG have considered the issue in more detail and are now confident that 10 Mbps is sufficient bandwidth to undertake the migration. Therefore, a phased rollout of Office 365 has now been agreed which will see email (Exchange Online) migrated first, with subsequent elements being migrated over time before the move to our new premises. This will mitigate any risks relating to insufficient bandwidth. Bandwidth speeds available at our new premises will be sufficient for the LSB's needs.
10. Next steps for the project include the rollout of new laptops for staff to replace existing desktop machines. In addition, a new project stream is being scoped that will deliver a new telephony solution for the LSB, using voice over IP.

Office for Legal Complaints

11. The voluntary assurance letter following the OLC's 24 June meeting is attached at **Annex A**. This has a refreshed format and we would welcome feedback on this. We have responded positively to the offer of greater dialogue at executive level on the detail of performance matters.
12. The Information Commissioner's Office has carried out a voluntary data protection audit report of the Legal Ombudsman. A summary is published online. It gave a limited assurance rating for records management and information risk management, and a reasonable rating for security of personal data.
13. Catherine Seddon and David Eveleigh held a teleconference with Shrinivas Honap, newly appointed chair of the OLC's ARAC, on 5 June.
14. Michael Smyth and Catherine Brown attended the OLC/LSCP/LSB workshop on 12 June. The LSCP circulated to delegates the paper prepared in response to our informal commission on potential alternative approaches to delivery of legal complaints handling by the Legal Ombudsman.

Regulatory developments

Horizon scanning

15. The latest report is attached at **Annex B**.
16. At the June Board meeting, as a result of an article in the horizon-scanning report, it was agreed that the executive would consider whether to progress any work following reports of Shieldpay publishing a white paper suggesting that the LSB or FCA should develop a common set of standards for third party managed accounts (TPMAs). Our 2015 report, *Proposals for alternatives to the handling of client money*, detailed the advantages for alternatives to client accounts (such as TPMAs). The SRA, CLC and CILEx Regulation now specifically mention and permit the use of TPMAs in their regulations and all TPMA companies must be regulated by the FCA. As there are no identifiable gaps or areas for concern relating to TPMAs in legal services it is the executive's view that no further action is needed at this time. We understand that press reports are likely to be part of a campaign to increase awareness of Shieldpay's offering and to stimulate demand for their product. We expect use of TPMAs to increase as the market matures and we will monitor these developments.

- [REDACTED]
17. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

EU Exit

18. There has been no change since the last Board meeting. The LSB issued a blanket exemption direction on 20 February 2019, which allows approved regulators to make changes to their regulatory arrangements related to a no deal EU Exit, without the need make a rule change or exemption direction application.
19. We have been notified of two sets of changes, from the SRA and BSB. We reviewed and concluded that both fell within the scope of the blanket exemption. The SRA and BSB will of course only make the changes in the event of a no-deal exit.
20. The EU has extended the deadline for the UK's departure to 31 October 2019.

Research

21. The team received a presentation of the topline findings from the individual legal needs survey. YouGov is now working on the first draft of the report.
22. The first two papers from our technology project, together with podcasts with the authors, have been published on our website. The first paper, by Alison Hook, looks at activity by legal services regulators in other jurisdictions. Alison Hook will be presenting her paper to the International Conference of Legal Regulators in September. The second paper, by Professor Roger Brownsword, makes domestic comparisons. Drafts of other papers are in various stages of development and will be published from September onwards.
23. The EHRC referenced data from the 2015 individual legal needs survey in its report on access to legal aid in discrimination cases. This followed additional analysis performed by the research team and is a good example of the potential for our data to inform policy development.
24. The research webpages have been migrated to the new corporate website.

Statutory decisions

25. Since the last CEO report, the LSB has approved three rule change applications:
 - a. from the SRA to implement the detail of changes to its PII and Compensation Fund arrangements which were largely approved by the LSB as part of the Looking to the Future application in November 2018;
 - b. from CILEx Regulation to allow it to put in place interim appeal arrangements in relation to its role as a licensing authority; and
 - c. from the BSB in relation to new transparency rules intended to implement the CMAs recommendations.
26. The CLSB has withdrawn its application for the approval of a new Costs Lawyer Competence Assessment (CLCA). The withdrawal followed the LSB issuing a warning notice.
27. The LSB has also issued exemption directions in respect of applications from:
 - a. CILEx Regulation to reflect changes to the governance arrangements of CILEx; and
 - b. the SRA to make minor adjustments to drafting errors made in the rule change approved above relating to PII/Compensation fund.
28. At the time of writing, there were five live statutory decision applications being considered:
 - (a) a rule change application from MoF for approval amendments to its regulatory arrangements in respect of new transparency rules (the initial deadline has been extended);
 - (b) a rule change application from SDT for approval of new Solicitors (Disciplinary Proceedings) Rules. The principle proposed change is to the standard of proof from the criminal to the civil standard (which will bring the SDT into alignment with all the other regulators);
 - (c) a rule change application from the BSB for approval of amendments to the BSBs enforcement decision regulations (the initial deadline has been extended);
 - (d) a rule change application from the BSB for the approval of amendments to the BSB's rules surrounding the publication of sexual orientation and religion or belief data; and
 - (e) a rule change application from the BSB for the approval of amendments relating to the BSB's rules regarding professional indemnity insurance provided by the Bar Mutual Indemnity Fund.

SQE – Junior Lawyers Division

29. The Junior Lawyers Division of The Law Society wrote to the Justice Select Committee on 21 June, asking the Committee to hold a short inquiry, or evidence session, into our March 2018 decision to approve the SRA's first SQE application. The letter was an open letter that was reported on in the legal press.

30. The Board will recall that our March 2018 decision approved the framework upon which the SRA Board can seek to introduce new requirements for anyone wishing to qualify as a solicitor. The decision does not allow the new approach, or the SQE itself, to be implemented. For the new approach to have effect, we will need to approve a further application (expected summer 2020) with additional detail in a number of areas, which are set out in the decision notice.

31. The JLD's letter raised various concerns, summarised in this passage:

As our consultation responses make clear, although the JLD is supportive of a centralised assessment (as the SQE will provide), it has significant concerns about other elements such as the removal of the requirement to study academic law substantively, assessment by method of multiple-choice question (MCQ) examination, training requiring only 'the opportunity' to develop the necessary competencies and sign-off being possible by a newly qualified solicitor who may not ever have met the trainee.

32. The issues raised were included in our assessment and addressed in our decision notice of March 2018.

33. Colleagues have discussed the JLD letter with the Clerk to the Justice Select Committee to offer to provide additional information and to clarify the LSB's position. We have also re-sent a letter from the LSB Chair to the Justice Select Committee Chair dated March 2018, which explained the scope of our March 2018 decision and next steps.

34. [REDACTED]

35. On a related note, we will be seeking a meeting with the Chair of the JLD for Matthew Hill as part of his first round of induction meetings.

Regulatory Performance

[REDACTED]

36. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

37. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

38. [REDACTED]
[REDACTED]

39. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

40. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Legal issues

ICO investigation

41. A complaint was made to the ICO about the LSB's refusal under s44(1)(a) of the Freedom of Information Act 2000 (disclosure prohibited by law) to disclose information in response to a FOIA request. Our response is due on 8 July 2019. In using this exemption we relied on ss167-168 of the Legal Services Act, which prohibits disclosure of restricted information. The information requested was obtained by the LSB in the course of an investigation. As a matter of principle, the LSB ought to be able to use the s44 FOIA exemption in this way if the circumstances warrant it.

Communications and external engagement

42. LSB communications activity has increased significantly since the last Board meeting in June. The team brought a paper to that meeting detailing the options available for marking the tenth anniversary of the LSB. In line with the Board's steer, the Communications team will be taking forward those proposals across the full range of its activities.
43. In terms of public-facing engagement, last month I spoke at the Legal Futures Regulation and Compliance Conference on June 6, sharing the platform with Naomi Ellenbogen, Vice-Chair of the BSB; Sheila Kumar, CEO of the CLC; Chris Handford, Director of Policy at the SRA, and Sam Younger, Chair of CILEx Regulation. Jemima spoke the following week at the Westminster Legal Policy Forum on 'Improving Diversity in the Legal Sector'. Both of these events were communicated proactively on social media, with Jemima's opening keynote speech live-tweeted along with her as she spoke.
44. In terms of our engagement with the media, we have received a number of enquiries from both national and trade press relating to:
 - Our approval of the SRA's PII/Compensation fund application, which prompted questions from Law360 and the Times; and
 - Our November report on *Technology and innovation in legal services*, in relation to which a reporter from New Law Journal inquired about the Board's attitude to Smart Assistants being used in conveyancing.
45. I also submitted an article to Modern Law Magazine which details the challenges of being a risk-based regulator and linking this to our three five-year policy objectives.
46. Through our social media channels, we have proactively communicated the LSB's approval of the BSB's transparency requirements, colleagues' participation in the London Legal Walk, and have again flagged our March submission to the Equality and Human Rights Commission's inquiry into legal aid for discrimination cases, which reported in June.
47. The communications team also assisted colleagues working on the technology project with the production of two podcast interviews with senior academics, and promoted these through a campaign involving both advance press and social media content.
48. June also marked the launch of our new corporate website. There were some initial difficulties relating to issuing security certificates; however, these have now been resolved.

49. Finally, a list of mine and the Chair's engagement with stakeholders is below:

Date	LSB	With:
7 June	CEO	CEO, OLC
10 June	Chair & CEO	Chair & Chief Ombudsman, OLC
10 June	Board	Board, Bar Council
11 June	CEO	CEO, the Law Society
14 June	CEO	CEO, Bar Standards Board
17 June	CEO	CEO, Costs Lawyer Standards Board
18 June	Chair & CEO	Lord Keen of Elie QC
18 June	Chair & CEO	Chair & CEO, Solicitors Regulation Authority
27 June	Chair	Mark Sweeney, Ministry of Justice
1 July	CEO	CEO, OLC
9 July	CEO	CEO, CILEx Regulation