**Minutes of the Legal Services Board (LSB) meeting held on 4 June 2019**

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| **Date:** | 4 June 2019 | |
| **Time:** | 10:30 – 11:00 (Board private session)<br>11:00 – 14:30 (Board meeting) | |
| **Venue:** | 2nd floor One Kemble Street, London WC2B 4AN | |
| **Present:**<br>**(Members)** | Dr Helen Phillips | Chairing the meeting |
| | Neil Buckley | Chief Executive |
| | Catherine Brown | |
| | Jemima Coleman | |
| | David Eveleigh | |
| | Marina Gibbs | |
| | Jeremy Mayhew | |
| | Tim Sawyer | |
| | Catharine Seddon | |
| | Michael Smyth CBE QC (Hon) | |
| **In attendance:** | Steph North | Corporate Governance Manager (minutes) |
| | Holly Perry | Head of Corporate Services |
| | Caroline Wallace | Strategy Director |

**In attendance for specific agenda items:**

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| Steve Brooker | Head of Research and Policy Development (item 5) |
| Craig Wakeford | Regulatory Policy Manager (item 5) |
| Huw Penson | Corporate Affairs Associate (item 12) |
| Melanie Stewart | Head of Finance (item 6) |

**External attendance:**

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| Prof Stephen Mayson | Chair of the independent review of the legal services regulatory framework |

**Observing the meeting:**

Huw Penson, Corporate Affairs Associate
Paul Nezandonyi, Interim Communications Adviser
Tom May, Research Manager
Lau Ciocan, Legal Services Consumer Panel Associate
Steve Violet, Regulatory Policy Manager

**BOARD MEETING**

**Item 1 - Welcome and apologies**

1. The Chair welcomed all those present to the meeting, including a warm welcome to Tim Sawyer who was attending his first Board meeting as an LSB Board member.

**Item 2 - Declarations of interests relevant to the business of the Board**

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

**Item 3 – Paper (19) 24 - Chief Executive's progress report**

3. Neil Buckley presented his progress report, highlighting the following points:
   - [redacted] **[FoIA s36(2)(b)(i)]**
   - SDT – the SDT had been encouraged by the LSB to develop a reserves policy. The reserves would be used to fund prospective risk. The SDT currently had no reserves at all. Any such policy would be considered by the LSB as part of the budget application process and would need to be reflected in MoU between LSB/SDT/Law Society. The Board agreed it was content to receive a proposed policy in due course.
   - LSB gender pay gap – it was confirmed that the gap was due to seniority, not a discrepancy in the hourly rate.

3.1 Board members **reviewed** the CEO report, and the following points were raised in discussion:
   - Legal Access Challenge – this provided a good communications opportunity for the LSB, in relation to a potential access to justice and PLE tie-in.
   - IRN annual consumer survey – Board members were concerned to note that only 12% of those sampled were aware that they could take their legal complaint to the ombudsman. In terms of the PLE workstream, it would be essential for the team to consider the need for greater awareness to recourse. The figures showed that some law firms were still not adequately signposting complaint routes. This was on the radar of the LSB's regulatory performance team. **Action** – issue to be raised at the next SRA Board to Board meeting in terms of what the SRA were doing to measure the impact of client care letters and whether it was clear how to complain. It was noted that regulators have introduced enhanced requirements about complaints signposting through their new transparency rules and have made commitments around monitoring the impact of these changes.
   - CLC consultation to allow third party managed accounts and article about Shieldpay suggesting a role for the LSB in outlining expectations – the LSB did not yet have a firm position on this (although the LSB had signed up to a cross-regulator briefing note on alternatives to handling client money that was published on the LSB's website in 2015 and which identified desirable features for any such alternatives) but could encourage the regulators to look at

individually e.g. through the Regulators' Forum. **Action**: executive to consider if this area is sufficiently material for further work to be undertaken.
- On bullying – firms were under a regulatory duty to report even if the victim wanted to keep the incident confidential.

**Item 4 - Paper (19) 25 - Scoping paper on ongoing competence**

4. Angela Latta presented this paper which was an early scoping paper for one of the 5-year policy objectives. The policy team had framed what the LSB could and should be doing in this area, and were seeking a Board steer and suggested actions. The paper started from a blank slate, and did not seek a singular focus too early on. This was an opportunity to gather new evidence and to pursue an engaging outreach programme including through the use of ambassadors.

4.1 [redacted]

- [redacted].

- [redacted]

4.2 [redacted] **[FoIA s36(2)(b)(i)]**

**Item 5 – Paper (19) 26 - ADR discussion (follow up to 25 April discussion)**

5. Steve Brooker introduced the paper, which outlined proposals for alternative ways of delivering dispute resolution services, developed at the Board's request following an initial discussion in May 2019. In seeking improvements to ombudsman performance, the Board had asked the executive to consider whether there were more radical proposals. Steve asked the Board for a steer on the way forward – whether to broadly maintain our existing oversight approach or pursue more radical avenues, either now or as part of any future legislative reform.

5.1 The Board **considered** the paper and raised the following points in discussion:

- It would be important to establish which of the radical proposals would require legislative change. Currently, the LSB appointed the OLC Board and Chair. The possibility of strengthening and increasing the number of levers to hold the OLC to account was considered in the last Tailored Review but no action was taken.
- [redacted] **[FoIA s36(2)(b)(i) and (2)(c)]** There remained a significant weakness on feedback to the profession.

- It was acknowledged that the OLC's case management system was still very new and would take time to bed in. [redacted] **[FoIA s36(2)(b)(i) and (2)(c)]**
- The Board was reminded that as part of the recent OLC budget 2019/20 discussions, the OLC had been encouraged to ask for more money if they felt it would improve any area of performance.
- [redacted] **[FoIA s36(2)(b)(i) and (2)(c)]**

5.2 It would be important to assess how the LSB could best meet its responsibilities within the current framework without destabilising the relationship, [redacted]
- [redacted]
- [redacted]
- [redacted] **[FoIA s36(2)(b)(i) and (2)(c)]**

**Item 6 - Legal Services Board Annual Report 2018/19 - Oral update following ARAC**

6.1 The Board **noted** that at its meeting on 28 May, ARAC had reviewed the ARA. The Board delegated authority to the Chair and Chief Executive to agree the final version for signing. The ARA was on track to be published and laid before Parliament on 27 June.

**Item 7 - Paper (19) 27 - Legal Services Consumer Panel Annual Report 2018/19**

7.1 The Chair welcomed Sarah Chambers, Chair of the Legal Services Consumer Panel and Lola Bello, Legal Services Consumer Panel Manager, to the meeting.

7.2 Sarah presented an overview of the LSCP's Annual Report 2018/19. The tracker survey was the Panel's main piece of work from the year which underpinned everything the LSCP does. Over the past year, the Panel had dedicated time talking to consumers, front line regulators, and other stakeholders such as Professor Stephen Mayson. For 2019/20, the Panel were looking to travel more widely around England and Wales to meet with a broader range of people – within their resources. In the past year, work had focussed on the CMA transparency agenda, in particular price transparency. Sarah was clear that there was a need to encourage quality not only price transparency. The focus for the coming year would be on access to justice for vulnerable consumers. There would be a clear link to new technology, and finding ways to help those responsible to deliver new technology to empower consumers. The Panel was also keen to encourage the regulators to focus their discussions on hard evidence, not only arguments based on the consumer experience.

7.3 Board members **considered** the report, and raised the following points in discussion:

- It was interesting to note certain stakeholders' resistance to complaints data – and how the Panel would use the findings to push for change. Sarah said that the Panel had no powers and that it was for the regulators to effect change. The LSCP would host another workshop on the wider topic in September.
- The tone of the report could be more positive, highlighting the LSCP's vision, along with reflecting the confidence and impact that the Panel could have in spite of its limited resources.

7.4 The Chair thanked the LSCP for their report, and encouraged them to continue their excellent programme of work in the next year. All present looked forward to a positive, ongoing dialogue.

**Item 8 - Paper (19) 28 - Communicating our ten-year anniversary**

8.1 Caroline Wallace introduced the paper which proposed various communications activities for the LSB to tie in with the ten-year anniversary of it taking its powers at the start of 2009. There had been Board appetite to date to mark the occasion, as well as an opportunity to operationalise the recently agreed communications strategy. Caroline noted thanks to the Board media leads for their prior comments on the paper.

8.2 Huw Penson highlighted some of the specific proposals in the paper – [redacted] - **[FoIA s36(2)(b)(i)]** which all largely went beyond the existing day-to-day comms work, noting that the executive was open to ideas and suggestions. Huw asked the Board for a steer as to which activities should be prioritised, not least in terms of resourcing, and whether the forward-looking messaging was correct.

8.3 [redacted]

[redacted]

- [redacted]
- [redacted] **[FoIA s36(2)(b)(i)]**

8.4 The Board thanked the executive for the helpful paper and **noted** the planned communications activities.

**Item 9 - Paper (19) 29 - Impact tracking**

9.1 Holly Perry and Jenny Prior presented this paper, which reflected progress made to date in adopting an impact tracker for the LSB. There had been issues around operationalising the tracker: in terms of format, something would need to be added which would sit behind the tracker as a repository for reporting. It was suggested that the Tracker was not published in its current format, but that an updated Tracker with an integrated framework would be presented to the July Board meeting with a greater focus on performance.

9.2 The Board **reviewed** the tracker and made the following comments:

- The tracker was very welcome, as was the commitment to regularly update it.
- Combining it with impact and performance was viewed to be the right course of action, and it would be especially helpful if progress over time could be shown.
- It was agreed it would be counterproductive to publish at the moment but that publication should remain a longer term ambition.
- It would be helpful to revise the format so that the tracker could be viewed on one page.
- In due course, it would be helpful for the tracker to contain qualitative data such as where the LSB had an impact irrespective of the overall outcome, or where the LSB's impact resulted in a lower drop than would otherwise have been the case.
- It was important to bear in mind that one of the LSB's main powers – taking into account only some power to control external events - was a convening one which allowed shared ambitions and the ability to track progress towards them, and that there was always room for improvement.

9.3 The Board thanked the executive for the paper and **noted** the progress made to date.

**Item 10 - Paper (19) 30 - LSB Corporate Risk Register: six monthly review**

10.1 Holly Perry introduced this paper to the Board, thanking ARAC members for their comments at the 28 May ARAC and highlighting that due to the way the meetings fell in the past month there had been no chance to update the register following ARAC's comments on 28 May.

10.2 ARAC had suggested additional actions for a number of risks, and several actions were to be made 'SMART'. During the zero based review of the risk register to take place later this year, scoring practice would be looked at to make sure that not all risks were scored as moderate, and so that resource could be focused on the highest risks. Improvements to the dashboard (showing movement of scores by quarter) would be made for the next meeting.

10.3 The Board thanked Holly and Jenny for the updates to the Risk Register, **noting** that the risk register was referenced by the executive on an ongoing basis, not least in relation to planning for the office move, IT project, and incoming CEO, however this could be on an even more proactive basis, in which mitigating actions were reviewed as to whether they were sufficient (or possibly excessive) in view of risk tolerance and subsequent efforts prioritised.

**Item 11- Paper (19) 31 - Finance Report to 30 April 2019**

11.1 Melanie Stewart presented the Finance Report for April 2019. Expenditure at £284k was broadly in line with the budget. The executive had undertaken a review of expected expenditure for 2019/20 and identified budget areas where they anticipated new demand, and where contingencies may be required. With this, there was a forecast underspend of £81k at the end of the financial year.

11.2 Board members reviewed the report and raised the following points in discussion:

- It was welcome news that the MoJ had agreed money could be moved between pay and non-pay budgets. This was an important principle to have set, even if it would not be needed this year as it could be very helpful in future years.
- A request that any extra budget be diverted to the LSB's research budget – subject to office move contingency costs.

11.3 The Board **noted** the Finance Report and thanked the former interim Director of Finance and Services, for his approach to the delegation of budget.

**Item 12 - Report of the 28 May 2019 ARAC meeting (Oral)**

12.1 Catharine Seddon, Chair of ARAC, presented an overview of the 28 May meeting. The Committee had received internal audit reports in relation to planning for the office move and IT transformation (no recommendations were made) and also in relation to data management (five recommendations had been made, including two red/amber). The executive were to be credited for having identified weaknesses and subsequently diverting internal audit resource towards them. The Head of Internal Audit had provided a green amber rating for the LSB overall. The external auditors provided an unqualified audit opinion.

12.2 [redacted]

[redacted] **[FoIA s36(2)(b)(i)]** On the IT transformation, a key dependency – bandwidth – had been recognised and the Committee had been assured that the risk was in hand and the project remained broadly on track.

12.3 The Board **noted** the update from the ARAC meeting.

**Item 13- Minutes of the previous meeting – 25 April 2019**

13.1 The Board approved the minutes as drafted.

**Item 14 - Board action tracker**

14.1 The Board **noted** the action tracker. Jemima Coleman highlighted that She Breaks the Law had been set up by a Herbert Smith lawyer – she would be happy to facilitate an introduction.

**Item 15 - Forward look**

15.1 The Board considered the draft agenda for next Board meeting and were content.

**Item 16 - External speaker – Professor Stephen Mayson**

16.1 The Chair welcomed Professor Stephen Mayson to the meeting and there was a round of introductions around the table.

16.2 Professor Mayson was in the middle of his Review of Legal Services regulation, which was due to report on what a new regulatory framework might look like to government in 2020. He was supported by an expert advisory panel, whose members' role was to advise individually based on their background. He had previous interactions with the Board in helping to shape the LSB's vision in 2016.

16.3 Professor Mayson provided an overview of his work to date, some preliminary questions and an indication of where the work would lead next. His focus in the work remained on the public interest, it was apparent that regulating by activity was not as clear cut as he had previously anticipated, and he would be happy to return to the Board later in the year to provide an update on his work (**Action**).

16.4 The Board thanked Prof Mayson for his presentation, and a lively question and answer session followed. Topics raised included: the role of PLE in realigning consumer expectations; the role of the bar as compared to the role of solicitors; what the focus of regulation was and should be; whether a cultural shift could address issues in the system better than regulation; the extent to which the rights of audience should be exercised and regulated; issues of quality with members of the bar and solicitor-advocates; the status of entity regulation, and the likelihood of regulatory reform in the current political climate.

16.5 The Chair on behalf of the Board thanked Professor Mayson for sharing his evolving thinking, and requested that he keep the LSB in the conversation.

**Item 17 - Reflections**

17.1 The Board reflected on the meeting, commenting that the agenda had been well balanced. [redacted] **[FoIA s36(2)(b)(i)]** The Board welcomed the number of executive colleagues in attendance to observe the external speaker session, and requested that more time be given for the LSCP report item next year so that a fuller discussion could take place. In the interim, it would be important for the LSB to challenge the LSCP's own outcomes it hopes to achieve, not least in what it would be able to achieve in spite of its small size. The Panel had an important role, a wide-reaching convening power, and a range of levers available to it.

**Item 18 - AOB**

- External speakers programme 2019/20, including update on out-of-London Board meeting and stakeholder event (October 2019)

18.1 The Board was content with the speaker series for 2019, and requested that Professor Mayson be invited back to provide an update on his review, and that Dame Vera Baird be invited to speak in 2020.

18.2 There was no other business and the meeting closed.

SN 7/06/19

Signed as an accurate record of the meeting

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Date

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