Minutes of the Legal Services Board (LSB) meeting held on 22 October 2019

Date:	22 October 2019	
Time:	10:15 – 10:45 (Board private session) 10:45 – 14:30 (Board meeting)	
Venue:	Hedley Suite, Northumbria University	
Present: (Members)	Dr Helen Phillips	Chairing the meeting
	Matthew Hill	Chief Executive
	Catherine Brown	
	Jemima Coleman	
	David Eveleigh	
	Marina Gibbs	
	Ian Hamer	
	Catharine Seddon	
	Michael Smyth CBE QC (Hon)	
In attendance:	Steve Brooker	Head of Policy Development and Research
	Chris Nichols	Policy Director
	Steph North	Corporate Governance Manager (minutes)
	Holly Perry	Head of Corporate Services
	Danielle Viall	General Counsel
	Caroline Wallace	Strategy Director
External attendance:		
	Ed Nally	President, Solicitors Disciplinary Tribunal (by phone), item 14
	Geraldine Newbold	Clerk and Chief Executive, Solicitors Disciplinary Tribunal, item 14
	Sarah Morse	Editor, International Journal of Public Legal Education, item 15
Observing the meeting:		
	Huw Penson	Corporate Affairs Associate
	Angela Latta	Regulatory Policy Principal, until item 7
	Margie McCrone	Regulatory Policy Manager, until item 7
	Steve Violet	Regulatory Policy Manager, until item 7
	Sarah Chambers	Legal Services Consumer Panel Chair, item 15

BOARD MEETING

Item 1 - Welcome and apologies

1.1 The Chair welcomed all those present to the meeting, including Ian Hamer attending his first meeting as a lay Board Member, and to colleagues observing the meeting. No apologies had been received.

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

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

Item 3 – Paper (19) 45 - Chief Executive's progress report

3.1 Matthew Hill presented his progress report, highlighting that since the paper had been drafted:

- The Welsh Government had published its rapid review of the legal sector in Wales. The upcoming Individual Legal Needs survey results would look at differences between England and Wales.
- A successful all-colleague away-day had taken place the on 17 October 2019.
- As part of the LSB's commitment to greater transparency, there was no intention to redact any aspect of the CEO Report.

3.2 Board members **reviewed** the Chief Executive's report, and the following points were raised in discussion:

- Monthly LSB newsletter – this was a welcome change, which could helpfully be used to share early thinking on the development of policies and invite external opinion.
- Social mobility – it was encouraging to note in the horizon scanning report that various law firms were doing some positive work in relation to social mobility.
- Costs Lawyers Standards Board (CLSB) – it was noted that there is a concern that the organisation may be under-resourced, which is being considered through assessment of its PCF application.
- Legal Choices – it was disappointing to note that the BSB had withdrawn funding for Legal Choices at the end of the second year of a three year plan– with year three having been earmarked for evaluation.
- OLC – it was surprising that the most recent voluntary assurance letter contained no reference to the increase in service complaints against the Legal Ombudsman. The Board considered it important to draw a distinction between strong performance in a "green" state and good progress towards that state. **Action: LSB to write to the OLC Board with its reflections on the Voluntary Assurance Letter and recent conversations between the LSB and OLC Audit and Risk Assurance Committee chairs.**

3.3 Board members **noted** the CEO Report and that every effort was being made to minimise the need for redaction; and noting that the CEO report was intended for publication in full without redaction

Item 4 - Feedback from ongoing competence stakeholder event

4.3 The Chair on behalf of the Board thanked the team for a highly successful event that morning. There was great appetite amongst the Board to do many more similar events in different parts of England and Wales, and to consider the potential of international contributions.

Item 5 – Paper (19) 46 – SQE next steps

5.1 Chris Nichols introduced the paper, which was intended to capture Board views on the next steps for the Solicitors Qualifying Exam (SQE). The intention was to write to the SRA setting out a non-exhaustive list of issues that would need to be fully addressed by or in the second SQE application. Paragraph six referred to the SQE being provided in Welsh – which is a live issue that should also be included in the letter to the SRA.

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

- The first priority for the next application should be quality
- On the issue of quality and the perception of quality, it would be important not to presume that the status quo was itself providing a quality service. It would be important to consider the advantages and disadvantages of the proposed new system in a way that recognised the shortcomings of the existing arrangements
- Any future application should consider how ethics and professional standards are catered for under the new framework
- On the proposed roundtable event, it was agreed on balance that the LSB should convene the meeting with the SRA in attendance. The SRA had a role to engage their stakeholders on this important issue and to seek to resolve issues. The LSB's role, on the other hand, was to understand the origin and implications of those questions. The proposal needed to make this distinction clear, accompanied by clear reference to SRA's role at the roundtable event.
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Action: executive to produce SQE FAQs sheet.

5.3 The Board **noted** the update and **agreed** to the proposed actions, subject to a reordering of the priorities and a clear steer in relation to the roundtable event.

Item 6 - Paper (19) 47 - Plan for the development of the 2021-24 strategy

6.1 The Strategy Director introduced the paper which responded to the Board's September request: the plan was to focus on wide and deep stakeholder engagement, including face to face engagement with stakeholders beyond the regulators. A minimum of three events to help develop the strategy were proposed. One of these would launch the strategy, a second would test emerging issues and a third would take place once the consultation on the draft strategy was published. The draft business plan for 2020/21 would be presented to the November 2019 Board meeting. The final plan for developing the next strategy, and more detail about the proposed 'State of the Nation' report would be presented in a January 2020 Board paper.

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

- This was a good plan, and the proposed 'soft' consultation was supported.
- The strategic priorities should advance the 5-year policy objectives.
- The proposed approach to listen could be made more overt in the paper.

- On stakeholders, it was acknowledged that some found it easier to engage with the LSB than others, and already had awareness of the LSB and its role and remit. The strategy would need to be clear about reaching out to those who had not yet had a voice in shaping the future direction of the legal services market. International stakeholders, too, should be considered.
- The strategy document could include all regulator and representative body logos, alongside case studies.
- A planned ‘State of the Nation’ report would not succeed unless it had two elements, one containing the evidence and the other a short summary on the LSB views of the legal services sector, both in relation to the current state of the sector, and how it might look in the future – clearly linked to the evidence.
- Advocacy and evidence would need to go hand in hand.
- Resourcing for this work would need to be carefully considered, including research resource required to help with evidence gathering (which could be tied in with the market evaluation work).

6.3 The Board **noted** the plan for the development of the LSB strategy 2021-24. It was agreed that a paper would be brought to the January Board meeting with an updated plan for developing the next strategy.

Item 7 - Paper (19) 48 - Plans for a stakeholder survey

7.1 The Strategy Director outlined plans for the LSB’s first stakeholder survey, stemming from the Communications Strategy agreed by the Board in January 2019. The survey was intended to provide a way to measure the impact of the LSB’s communications work and to understand stakeholders’ perceptions of the LSB. The proposal was for a survey to be sent to all stakeholders with whom the LSB had engaged in the past two years, followed up with in-depth interviews with select stakeholders to understand in more detail their candid views about the LSB’s strengths and weaknesses.

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

- The two purposes of the survey were important, but fundamentally different. The more important of the two to begin with would be the focus on perceptions of the LSB. A survey focussing purely on effectiveness of communications activity could be undertaken separately, and perhaps with a different audience.
- It would be helpful to consider what was meant by a ‘stakeholder’, as well as to consider spending time with legal practitioners to seek informal feedback.
- Another option for more informal views could be to have Board members taking part in conservations with a handful of senior stakeholders.
- On the in-depth follow up interviews, it was essential that these be carried out by an external party to guarantee confidentiality, as well as to seek more open and honest feedback.
- The Board considered that it would be essential to engage a specialist consultancy not only to carry out the in depth interviews, but also to design the questionnaire, and advise on the implementation of the work more widely, to capture the learning from their experience in understanding stakeholder relationships and perceptions.

- On balance, it was agreed that this was the right time to undertake the survey in order to provide a baseline ahead of the planned increase in communications activity over the next year and beyond.

7.3 The Board **endorsed** the proposal to have a stakeholder survey, and asked the executive to return to the Board with a revised plan for the survey in line with the comments raised **(action).** That plan should be implemented sooner rather than later, and a third party should be engaged to carry out the focussed interviews, to focus on opinions in respect of strategic issues rather than the effectiveness of communications, and to include the parallel suggestion for senior (Board) engagement with stakeholders.

Item 8 - Paper (19) 49 - Finance Report to 30 September 2019

8.1 The Board **noted** the Finance Report, with a request that any underspend be used for research and/or supporting the delivery of LSB projects.

Item 9 – Report of the 1 October 2019 ARAC meeting

9.1 The ARAC Chair, Catharine Seddon, provided an overview of the discussions that took place at the LSB's 1 October ARAC meeting, including:

- Sitting as a Finance Committee, ARAC endorsed the draft 2020/21 LSB budget.
- The external audit plan was endorsed
- The new internal auditors, Crowe LLP, were welcomed and their approach to three-year internal audit planning supported
- The risk register and an associated paper on the LSB's approach to risk were supported.
- The recently completed two year cycle of assurance maps were reviewed.
- A deep dive into rule change applications was considered.
- Routine items on the office move, IT transformation and Governance Manual were also presented.

9.2 The Board **noted** the update.

Item 10 - Paper (19) 50 - Recommendation to appoint a new member to the RNC

10.1 The Board **agreed** to the appointment of Ian Hamer as a member of the LSB's Remuneration and Nominations Committee with immediate effect.

Item 11 - **Minutes of the previous meeting – 16 September 2019**

11.1 The Board **approve**d the minutes as drafted.

Item 12 – Board action tracker

12.1 The Board **noted** the action tracker.

Item 13 – Forward Look

13.1 The Board **noted** the draft agenda for the next Board meeting, and that the meeting would be taking place at the LSB's new offices. The Chief Executive was asked to consider a post-EU exit call with regulators to help inform the relevant CEO Report (**action**).

Item 14. Paper (19) 51 Solicitors Disciplinary Tribunal (SDT) budget 2020

14.1 The Chair welcomed Geraldine Newbold and Ed Nally (on the phone) to the meeting. The paper was taken as read.

14.2 Board members considered the proposed SDT budget for 2020 and the following points were raised in discussion with Geraldine:

- On equality and diversity, it was not clear that highlighted measures would produce better outcomes. The Board highlighted the potential merits of "positive action" measures to improve diversity in appointments.
- The Board made clear that it set a high priority on equality and diversity generally, including on establishing whether there was any link between protected. characteristics and outcomes at various stages of the disciplinary process.
- As a reduction in court sitting days was proposed, the Board asked why an equivalent reduction in costs was not also proposed.
- Recruitment for a deputy CEO was referenced in the paper, but in fact the recruitment had taken place in 2018/19. Recruitment was required for more lay members – a number had been lost due to retirement and judicial appointment, amongst other factors.
- The tribunal had historically sat for 266 to 300 days per year. Panel members were expected to sit for 15 days a year as a minimum, on a rota basis.
- Non-lay members had historically been paid more than lay members as there were some functions that only they could carry out. It was noted that the Tribunal's aim was to move to parity of lay and non-lay remuneration, mindful of the public spending climate.
- The SDT was very focussed on the cost of appointments, but it was suggested that they needed to invest in targeting more diverse groups, even if that meant spending more money.
- Ms Newbold told the Board the current diversity make-up of the Tribunal membership.
- In the last budget, it had been anticipated that there would be a steady stream of conduct cases coming before the Tribunal. This had not proven to be the case, with only a small number of sexual misconduct cases being received – all of different natures.
- The LSB would like to work with the SDT and the SRA on how they can more accurately predict the number of cases to come before the Tribunal.
- On the reserves policy, it was noted that the impact per regulated person would be equivalent to c£2 – that otherwise they would expect to get back.

14.3 Subject to comments above, the Board **endorsed** the SDT's proposed budget and reserves policy, as well as the proposal that the SDT would consider *what good looks like* from first principles.

Item 15 – external speaker – Sarah Morse

15.1 The Chair welcomed Sarah Morse to the meeting and there was a round of introductions. Sarah was previously a solicitor in private practice and is currently a senior lecturer at Northumbria University, as well as the Editor of the International Journal of Public Legal Education. It was in the latter capacity that she had been invited to address the Board today.

15.2 Sarah provided an overview of her work, as well as some headlines on public legal education (PLE). Her main work was in the Student Law Office, working with students, and the street law model of PLE which largely involved explaining legal rights and responsibilities in schools (and in other organisations such as charities, so they could pass the information on to their clients) accompanied by law students. The PLE Journal was still in its infancy and had been conceived to build an evidence base for what PLE could achieve – its potential impact, aims and objectives. Sarah understood PLE as increasing legal capability, giving the public the skills needed to identify and access support for disputes. In other jurisdictions, PLE was called, amongst others, law related education and community related education. There had been increasing awareness over the past decade, and lots was being done by universities and charities in this area.

15.3 Sarah outlined that there were two categories of PLE – just in time and just in case. Just in case PLE was very often responsive to people's current needs e.g. issues related to knife crime being a topic covered in schools. Just in time PLE provided education and tools to those facing a specific issue with an immediate need. This was still general information, and not legal advice specific to their case. There was limited information about the impact of PLE – why people were using it and whether it worked. There was evidence from health and nutrition initiatives that awareness raising did help. On knowledge, people tend to overestimate what they know and PLE helped to debunk myths. Sarah described that all lawyers produced PLE whether they acknowledged their work as that or not e.g. speaking at a seminar, writing a blog piece for their firm's website.

15.4 Board members considered the overview, and the following areas were covered in discussion:

- The LSB could usefully signpost the public to providers of PLE, given limited awareness.
- There would be perceptions of an increased regulatory burden by putting a requirement on practitioners to set out at the point of instruction where PLE sources existed. However, solicitors already had a duty to signpost when they couldn't help therefore this was not felt to be a material additional burden.
- PLE can be incorporated into what legal providers are already doing.
- Sarah did not view PLE as an alternative to legal aid or legal advice and was of the opinion that the UK did PLE as well as any other country in the world – however, there was room for improvement.
- *Just in case* was unhelpful phraseology, with the risk of minimising the importance of that PLE.
- A longitudinal study would be helpful to measure the impact of *just in time* versus *just in case* PLE.

15.5 The Chair, on behalf of the Board, thanked Sarah for her time, and for what had been a fascinating discussion. The LSB would remain in contact as it progressed its PLE workstream.

Item 17 - AOB

17.1 There was no other business and the meeting closed.

SN 25/10/19

Signed as an accurate record of the meeting

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Date

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