DRAFT

Minutes of the Legal Services Board (LSB) meeting held on 25 January 2022

Date:	25 January 2022	
Time:	10:30 – 11:00 (Board private session) 11:00 – 14:00 (Board meeting)	
Venue:	Microsoft Teams	
Present: (Members)	Helen Phillips, Chairing the meeting Catherine Brown Jemima Coleman Stephen Gowland Ian Hamer Gary Kildare Flora Page Catharine Seddon Michael Smyth CBE QC (Hon) Matthew Hill, Chief Executive	
In attendance:	Steve Brooker	Head, Policy Development and Research
	Ethan Fleming	Corporate Governance Manager (minutes)
	Stuart Hamill	Head, Finance and IT
	Angela Latta	Head, Performance and Oversight
	Paul Nezandonyi	Head, Communications and Engagement
	Chris Nichols	Director, Policy and Regulation
	Holly Perry	Director, Enabling Services
	Danielle Viall	General Counsel
Attending for items:	Aisling O'Connell	Regulatory Policy Manager (Item 4)
Observing:	Natalie Donaldson	Communications and Engagement Associate
	Donella Williams	Corporate Projects Manager
Apologies:	N/a	

Board meeting

Item 1 - Welcome and Apologies

1. The Chair welcomed everyone to the meeting with a particular welcome to the Communications and Engagement Associate and the Corporate Projects Manager who would be observing the meeting.

2. There were no apologies to record.

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

3. Jemima Coleman was currently on secondment to Oxfam International as Legal Counsel.

4. Further to his declaration at the last meeting that he had been appointed a CILEx Companion, Stephen Gowland reported that as part of the role it was envisaged that twice-yearly meetings would be held with the Chair and President. He would take steps

to ensure that it was clear in those meetings and other relevant engagements that he was acting in a personal capacity and not on behalf of the LSB.

5. Stephen Gowland also reported that the complaint against his former firm which he had previously declared had been dismissed by the Legal Ombudsman. The same complaint had been raised with the SRA, and this had also been dismissed.

Item 3 – Paper (22) 01 Chief Executives Progress Report

6. The Chief Executive presented the progress report. The following points were raised in discussion:
    - The BSB was receiving increasing numbers of allegations of potential misconduct in their community. The PCF application identified that BSB required an uplift in resources to ensure that they had appropriate capacity and capability to deal with the increased volume of activity.
    - The Director, Policy and Regulation had met the BSB and MoJ to discuss the Absolute Barrister case. Assurance had been received on what had been done to help clients, although it was considered that more could have been done. The BSB had previously examined Absolute Barrister in 2018 however it appeared its operations had significantly changed since then. The LSB would continue to engage with the BSB on this issue.
    - The Board would receive further information about the Solicitors Indemnity Fund and other insurance and compensation developments. (**Action**)
    - The issue of costs relating to cases brought by the SRA to the SDT was not straightforward; it was of general importance that regulators should not be deterred from bringing forward challenging cases. The issue would be considered as part of planned work on disciplinary and enforcement processes proposed in the business plan.
    - The SRA had recently published the first set of SQE results, which identified a lower pass rate for BAME candidates. SRA was currently in the field with research to analyse differential attainment rates across professional examinations, to understand the reasons for the difference. Under the previous more fragmented arrangements, there had been greater challenges in assembling coherent datasets. The intention of SQE was for data to be published after each exam for transparency reasons and so that interventions were evidence-based and could be appropriately targeted.
    - The OECD framework on people-centred justice and the FCA consumer duty were discussed, and it was agreed that these should be taken into account in the regulatory performance framework review. (**Action**)
    - The Board agreed that pay transparency might potentially be amenable to regulatory intervention.
    - The data sharing agreement with Citizens Advice was a very positive development and an example of work not previously undertaken. It was expected to help inform an understanding of the problems in the sector.
    - The Master of the Rolls was committed to more online use in civil courts and there was felt to be a role for the LSB to monitor this and its impact on access.
    - The LSB had written to senior Scottish officials offering expertise in relation to recent developments.
    - The Oxford University report on AI report pointed to future changes and it was important for the LSB to keep on top of the impacts and implications for legal regulation.

7. The Board **noted** the CEO's report.

Item 4 – Paper (22) 02 Regulatory Levers and Technology

8. The Regulatory Policy Manager presented the paper and gave a slide presentation on technology and the role of regulation. The following points were raised in discussion:
    - Trust often depended on people's socio-economic status, with research showing that those who were in a more affluent socio-economic order had more trust in social institutions and lawyers. People's trust in legal technology, and the acceptability of legal technology, was likely to follow this.
    - Along with trust, ethics was an important consideration, and it would be useful to set some standards in this area.
    - Use of technology needed to take into account other outwards factors such as cyber security and Environmental, Social and Governance (ESG).
    - Regulation needed to encourage and enable innovation, with regulators taking risk-based approaches to embrace opportunities. Some regulators had established dedicated teams and inboxes to facilitate this.
    - There would be benefit in drafting a policy statement with the caveat that it may not be needed - the process of drafting would help the executive set out expectations clearly. Current work aimed to set out what good looked like in a principles-based way. These principles needed to clearly link to outcomes in the strategy for the sector, and how appropriate technology and risk taking would achieve the outcomes.
    - The Personal Injury claims portal had faced a number of issues similar to other government portals – current data indicated that only around 10% of users were litigants in person, even though the aim had been for it to be usable by the average person. Further iterations were likely to come available which might improve the issues.
    - It was noted that law firms' use of technology could have an impact on recruitment of junior legal talent owing to increased automation. However, the use of such automation would depend on clients receiving the same levels of satisfaction in the services received.

9. The Board **noted** the Regulatory Levers and Technology report.

Item 5 – Paper (22) 03 Annual Regulatory Performance Assessment Report

10. The Head, Performance and Oversight presented the paper and gave a slide presentation on the annual regulatory performance assessment reports. The following points were raised in discussion:
    - The current rating system could be seen to support a view that a regulator scoring green was without issues, which is unlikely to be the case. The ongoing work to develop a new performance framework creates an opportunity to address this.
    - There is scope to make the framework more transparent and understandable to consumers.
    - This year marked an improvement on previous years both in the LSB's approach to the assessments, and progress by some regulators.
    - In respect of ICAEW, it was queried what the risk of a failure by one of the big four audit firms was, and the impact this would have on the legal profession.

11. The Board **noted** the Annual Regulatory Performance Assessment Report.

Item 6 – Paper (22) 04 Equality, Diversity and Inclusion Update

12. Owing to time constraints, Board Members were invited to submit written comments to the executive. (**Action complete**)

13. The Board **noted** the EDI update.

Item 7 – Paper (22) 05 Finance Report to 31 December 2021

14. The Board **noted** the finance report.

Item 8 - Minutes of the Previous Meeting

15. The Board **agreed** the minutes as drafted.

Item 9 - Board Action Tracker

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

Item 10 - Papers Circulated out of Committee

17. No items had been circulated out of committee since the last meeting.

Item 11 - Forward Look

18. The Board **noted** the agenda for the next meeting.

Item 12 – AOB

19. The Board **noted** the Chair's update in relation to the current recruitment of a new non-lay Board member to succeed Michael Smyth from April 2022.

Item 13 - Wrap Up and reflections

20. Overall, it had been a positive meeting however it was regretful that there had not been time to fully discuss the EDI paper.

Item 14 - Presentation from OPBAS

21. The Board received a presentation from representatives of OPBAS followed by a discussion of where both parties could assist and learn from each other.