



**Meeting:** Legal Services Board, 18 September 2019

**Item:** Paper (19) 41 - CEO Progress Report - September 2019

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**Status:** Official

### Introduction

This paper updates Board Members on key developments across the organisation since the 16 July 2019 meeting.

### Recommendation

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

### Annexes

Annex A: OLC Voluntary assurance letter – July 2019

Annex B: LeO Performance Commentary - August 2019

Annex C: Horizon scanning report

<b>Risks and mitigations</b>	
<b>Financial:</b>	N/A
<b>Legal:</b>	N/A
<b>Reputational:</b>	N/A
<b>Resource:</b>	N/A

<b>Freedom of Information Act 2000 (Fol)</b>		
<b>Para ref</b>	<b>Fol exemption and summary</b>	<b>Expires</b>
Para 30 and Para 42	Section 36(2)(b)(ii): information likely to inhibit the exchange of views for the purposes of deliberation	

## CEO Progress Report - September 2019

### **Ministry of Justice (MoJ) matters**

#### Appointment matters

##### *LSB Board members*

1. The campaign to recruit two non-lay Board members to take up appointment from 1 April 2020 is due to launch in September 2019 (subject to ministerial sign-off) with a closing date of 8 November 2019. The recruitment panel will comprise of: Annabel Burns (Panel Chair), Director, Judicial Policy Directorate, MoJ; Dr Helen Phillips, LSB Chair; Mrs Justice Yip, Lord Chief Justice's representative; and, Lambert Allman, Independent Panel Member.
2. Desirable criteria for the search include: experience of practice at the English / Welsh bar, ideally with a background in competition matters; experience of practice in a high street firm; and / or qualification as a chartered legal executive; and / or a strong grasp of particular issues facing vulnerable consumers of legal services.

##### *LSCP members*

3. The campaign to recruit one new member of the Consumer Panel is due to launch w/c 9 September and close on 23 October. Interviews will be held on 6 December, with the successful candidate taking up post on 1 April 2020. The recruitment panel comprises of: Jemima Coleman (chair), Sarah Chambers, and an independent member, Keith Richards.
4. Desirable criteria for this recruitment round include: experience of issues affecting BAME and/or disabled and/or vulnerable consumers; some knowledge of the law and/or legal services, or wider advice services; and community engagement.

##### *OLC Board members*

5. OLC Board member Rebecca Hilsenrath has been reappointed for a second term of 4 years to run from 1 April 2020 to 31 March 2024.
6. The OLC Chair's first term is due to end on 31 March 2020.

### **Colleague and organisation matters**

7. A new member of staff at Associate level will join us in October. We expect the new member of staff to focus mainly on work in the technology area. The new member of staff has some wider expertise in economics that we will seek to deploy accordingly.

### *All-colleague survey*

8. On 20 August, we received the results of the 2019 LSB all colleague survey which was undertaken this year by BMG Research. The survey was undertaken between 1 and 19 July, and all colleagues were given the opportunity to complete it. Across the LSB, a 97% response rate was achieved.
9. Overall, the picture is very positive – the full report has been provided to the LSB Chair and Chair of the RNC, and is available on request for any other Board members. BMG emphasised in their presentation that our results were consistently above the BMG regulator benchmark, even in lower performing areas, and this reflects a strong and positive working culture at the LSB. In particular, there have been marked improvements and high scores in relation to colleagues feeling valued, supported and appreciated, and also in communications / having a say. There was also a great deal of positivity about colleague wellbeing initiatives, as well as training opportunities. The results show that there is a real culture of feedback, dialogue and discussion at the LSB.
10. These findings do great credit to all LSB colleagues and set a very high standard for me as the incoming CEO to try to live up to. That said, the survey highlights a number of opportunities for further improvement. We have discussed the findings as a team and identified the following themes as potentially forming the basis for an action plan, subject to further discussion at the all-colleague away day on 17 October:
  - SLT engagement – how we build openness and transparency
  - Developing pride in the LSB – how do we increase our feeling of being proud to work here? e.g. how do we generate a clearer understanding of the difference we make through our work? How do we ensure we are sufficiently assertive in our approach?
  - Related to that, how might we better embed the LSB’s vision and values in our day-to-day work?
  - Responding to feedback in relation to career development at the LSB, articulating more openly the “value proposition” of working at the LSB: the opportunities to develop valuable skills, experience and expertise within a very positive working environment
  - Linked to this, learning and development more widely – how we improve feedback discussions, and develop conversations about career opportunities
  - How we make the LSB’s highly valued approach to flexible working as effective as it possibly can be – for example by establishing, or re-establishing, expectations about communications when colleagues are not physically present in the office and identifying and resolving perceived barriers to pace, challenge and assertiveness

## **Governance**

### Office move

11. We have now executed the Lease Agreement and Licence to Alter for the third floor office space at The Rookery. We now have possession of the space, and the fit out works are underway – these are expected to last five to six weeks. We are planning to move into the new offices on Monday 11 November 2019.
12. In terms of exiting from One Kemble Street, we are currently in negotiations with the landlords regarding the disposal of the furniture not coming with us. We can potentially make a cost saving by combining with others in the building who are moving out to have furniture disposed of. We have so far held two successful organisation-wide clear out days where colleagues were asked to dispose of as much paper as possible. A removal company has been chosen and booked and will be delivering packing crates on 6 November, ahead of the move-out date of Friday 8 November.
13. We are currently evaluating proposals from two companies for the fit-out of the new offices with AV and videoconferencing solutions for the meeting rooms and breakout space.
14. BT completed their site survey at The Rookery in August, and it is expected that the new line, which will see an increase in network bandwidth from current speeds of 10 MBps to 100 MBps, will be installed by mid-October. There is no major work required to run fibre to the office and therefore related legal work has been minimal.

### IT transformation

15. Laptops were rolled out to all LSB staff early in August to replace existing desktop machines, an essential step in the move to more agile working.
16. Migration of our on premise IT infrastructure to the cloud is on track for completion by the end of October. This is a key dependency for the office move since there is limited space in the new offices to host IT equipment. As such, the move to the cloud will need to be completed at One Kemble Street. Key elements include:
  - Migration from Office 2013 to Office 365
  - Migration of our existing IP telephony to Microsoft Teams
  - Email upgrade to Exchange online
  - Migration of the LSB data management system from Wisdom legacy software to Microsoft SharePoint.

17. The rollout of a new accounting system is also underway. Migrating from Access Dimensions to Microsoft Business Central will result in cost savings to the LSB as the new software is a more appropriate fit for the Finance function's needs. The new system will go live from 1 September.

### Office for Legal Complaints

18. The voluntary assurance letter from the OLC's July meeting is at **Annex A**. Reflecting the discussion at the board-to-board, in future we should receive a revamped version of the letter focusing on the trajectory for improvement. Attached at **Annex B** is the latest letter received (note that OLC did not have a board meeting in August and the content of the letter differs somewhat from the norm). There has also been an exchange of correspondence following our Board-to-Board meeting, which has been uploaded to the board portal for reference.
19. The summer period has seen increased focus by LSB and MoJ on the OLC's performance. We have articulated what we expect from a 'roadmap' that will meet our joint expectations, as follows:

*"By close of play on 10 September 2019 produce a roadmap that sets out the proposed timeframe and actions that will be progressed to bring LeO's performance into a sustainable "green" state. This should include:*

- *Articulation of what an acceptable level of end-to-end performance would look like;*
- *A clear trajectory on targets and performance, by month, at each stage of the process, from the present until sustainable acceptable performance has been achieved (to include, but not limited to, the size of the unallocated pool and timeliness KPIs). This trajectory can be updated monthly to detail actuals i.e. what was achieved against forecast.*
- *Key actions and timeframes for delivery of the improvement plan*
- *Risks and how they are being managed and mitigated, particularly on how the quality of decisions is being safeguarded and monitored when targets are being considered."*

20. Along with David Eveleigh, I will be observing the performance discussion at the OLC's October meeting. A programme of executive level meetings with Chris Nichols and Steve Brooker has been arranged to assist with detailed scrutiny of the OLC's performance. Chris and Steve, alongside Ministry of Justice officials, are attending a 'discovery day' at the OLC on 13 September to enhance our detailed understanding of the OLC's operations.

21. The OLC's performance and cost is an agenda item for the Regulator CEOs meeting taking place on 11 September and I will report back on developments.

## **Regulatory developments**

### Horizon scanning

22. The latest report is attached at **Annex C**.

### Legal Choices

23. As requested at the last Board meeting, this was on the agenda for the Regulator CEOs meeting on 11 September. I also touched on the situation at my introductory meeting with the BSB Director General. Colleagues have explored creative options to secure the long-term financial viability of the Legal Choices website. I will update Board members orally on the latest situation.

### EU Exit

24. MoJ has increased the intensity of its focus on 'no deal' readiness as the Government's 31 October deadline for EU exit approaches. There has been another roundtable meeting with legal services regulators and a letter to the LSB requesting assurance that our business continuity planning (BCP) arrangements take into account the possibility of a no deal exit.

25. SLT has considered the LSB's BCP in the context of a possible no deal EU exit and a test of the communications element of the plan was carried out at the end of August. We have responded to MoJ's queries about our BCP and written out to the frontline regulators to seek similar assurance from them, which we will collate and relay to MoJ.

26. We have had some correspondence with MoJ about the relative roles of MoJ and LSB in terms of assuring frontline regulator preparedness for EU exit. We have been discussing with MoJ sensible divisions of labour that preserve our statutory interests in relation to rule changes and regulatory body preparedness, while avoiding duplication. MoJ has expressed some concerns, borne of its wider remit, about specific elements of regulator preparedness. We are engaging to understand those concerns better.

### Research

27. A full draft of the Individual Legal Needs Survey report has been received and we are working towards publication in early October. A presentation of the research findings is elsewhere on the agenda. Steve Brooker provided a preview of some of the key findings at the International Conference of Legal Regulations on 5 September.

28. The third and fourth papers from our technology project, together with podcasts with the authors, have been finalised ahead of publication. One paper, by Anna Donovan of UCL, is on the regulatory implications of blockchain (the Board will recall that Anna was a guest speaker at the March meeting). The other paper, by Noel Semple of Windsor University in Ontario, looks at the potential impacts of technology on the sustainability of the Legal Services Act's regulatory framework.

29. Later this month we plan to issue an invitation to tender to re-run the 2017 prices research, co-funded with the CMA and Ministry of Justice.

### Contingency planning

30. The team are currently working up a bespoke contingency plan that will set out the steps that we would take in the event that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. [FOIA exempt Section 36(2)(b)(ii)] We will circulate this plan to Board members for noting in October.

31. We also intend to include within the 2020/21 business plan a project to review and update our wider contingency planning documentation for regulator failure.

32. This work will be informed by recommendations from ARAC when it considered contingency planning on 28 May.

### PLE Update

33. The Board will recall that following its July meeting the PLE team recirculated a revised version of the scoping paper to the Board and invited Board members to provide any further comments they might have by the end of August. We received one set of comments about the desirability of partnering with other bodies in conducting PLE research. We have taken this comment on board and will reflect it in our project planning. We have begun engaging with stakeholders and considering the regulatory levers available to us as part of our initial PLE work.

### Statutory decisions

34. Since the last CEO report, the LSB has approved five rule change applications:
- a. from the BSB to allow it to require chambers and BSB entities to publish diversity data in relation sexual orientation and religion or belief
  - b. from the SDT to implement new Solicitors (Disciplinary Proceedings) Rules which included amending the standard of proof from the criminal standard to the civil standard
  - c. from the Faculty Office in relation to new transparency rules intended to implement the CMAs recommendations
  - d. from the SRA in relation to this coming years' compensation fund contributions; and
  - e. from the BSB in relation to further modernisation of its enforcement processes.
35. The LSB has also issued exemption directions in respect of applications from:
- ICAEW in relation to amendments to its Practice Assurance Regulations
  - the SRA to make minor adjustments to the wording contained in its fee determinations for PCF; and
  - CILEx regulation in order to ensure that its regulatory arrangements were extended in order to cover licensed bodies.
36. In addition the LSB has approved the joint PCF application from TLS and the SRA.
37. At the time of writing, there were two live statutory decision applications being considered:
- (a) 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.
  - (b) a rule change application from the SRA for the approval of amendments that would remove its QASA regulations.
38. At the time of writing, there were also four live PCF applications being considered:
- an application from IPReg to increase its PCF by 2.8% (RPI)
  - an application from the Faculty Office to change the methodology for charging its PCF (resulting in 4 charging tiers based upon income)

- an application from CLC to reduce its PCF for entities by 20% and to keep other fees steady
- an application from CILEx Regulation to keeps its PCF steady.

39. At the time of writing, there were also six exemption direction applications under consideration.

### Regulatory Performance

40. Updated assessments of the regulatory bodies' performance at June 2019 have been published. Our next review will take place in November 2019 and a statement has been issued to say that we expect a significant improvement in performance by them against the outcomes recorded in our January 2019 report which remain "unmet".

### Legal issues

#### *ICO complaint*

41. I received notice on 20 August 2019 that the ICO did not uphold the complaint against our decision not to disclose information under s44(1) FOIA. The complainant has 28 days to appeal the decision, at the time of writing we had not heard if any appeal had been made.

#### *IGR potential challenges*

42. The IGR were published in July. The judicial review time limit expires on 24 October 2019. [REDACTED]

[REDACTED]. [FOIA exempt Section 36(2)(b)(ii)]

### SDT

43. A revised MOU with the SDT and Law Society has been signed.

## **Communications and external engagement**

### Media update

44. We have increased our media activity and are proactively seeking opportunities to discuss, explain and promote our role and our work to stakeholders.

45. At the end of July, we issued a media response to the Legal Services Consumer Panel's latest tracker survey results. Our quote was used by The

Times. The Times also covered the story about the LSB approving the SDT's adoption of the civil standard of proof.

46. In July, we published the updated IGR. The story was covered by The Times, Legal Futures, and Law Gazette. Last month, Legal Futures ran a story about our PLE plans.

47. At the end of August, we were asked by Legal Futures to comment on the Bar Standard Board's decision to stop funding Legal Choices. We provided a quote from the Chair.

48. Looking forward, we have secured opinion pieces for the Chair in Legal Futures, the Solicitors Journal and the Lawyer over the next three months. The pieces will cover PLE, ongoing competence, the technology project and diversity. We will use these as opportunities to highlight the work of the LSB and to further establish the Chair and the organisation as leaders in the sector.

#### Communications update on the technology project

49. As reported previously, the communications team 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. The podcasts have been listened to 184 times and the project was covered by Legal Futures.

50. The teams are working on four more podcasts which will be accompanied by a research paper. These will be released over the next three months and provide opportunities to promote our policy work on technology.

#### Possible imminent general election

51. If a general election is called, we may need to comply with publicity restrictions during the pre-election period (purdah). We will review our communications activity against any guidance issued by the Civil Service.

#### Understanding stakeholders and measuring the impact of our communications

52. We plan to conduct a stakeholder survey to help us understand stakeholders' views of the LSB and our work. The feedback will help refine our communications strategy and engagement plans. It will also inform the KPIs we use to measure the impact of our communications and engagement activity.

53. We will share a draft of the survey with the board's two communications leads. The survey results and recommendations will be presented to the board.

### Newsletters

54. Later this month, we will introduce a revised regular stakeholder email newsletter. Our newsletter currently goes to parliamentarians only, on a quarterly basis. We will now send the newsletter to all stakeholders. The list of people on our stakeholder list is growing now that people are able to subscribe directly through our new website. The wider distribution will enable us to share updates about our work with people directly, rather than rely primarily on meetings and press releases.

### LSB website blogs

55. As part of our efforts to use our own communications channels to share news and project updates, we plan to publish blogs on our new website that we can then share on social media and through the revised newsletter. We will be contacting board members to discuss topics.

### Stakeholder engagement

56. On 5, 6 September, I attended the International Conference of Legal Regulators in Edinburgh. I met with a number of stakeholders, both domestic and international, with follow-up meetings to be scheduled shortly. Steve Brooker and Angela Latta took part in separate panel discussions.

57. During my first two weeks at the LSB I have had a range of introductory meetings with the LSB's stakeholders. Initial meetings have so far covered introductions, along with discussion on the IGR following publication and the LSB's progress so far on the five year objectives:

<b>Date</b>	<b>LSB</b>	<b>With</b>
22/8	CEO	Outgoing CEO, CILEx Regulation
27/8	CEO	CEO, Bar Council
28/8	CEO	CEO, ICAEW
29/8	CEO	Public Bodies 2020 Strategy Team, the Cabinet Office
2/9	CEO	Judicial Diversity Forum, Officials meeting
3/9	Chair, CEO	Chair, CILEx Regulation
3/9	BOARD	SRA – SQE Masterclass

3/9	Chair, CEO	President, TLS
9/9	CEO	CEO, TLS
10/9	CEO	CEO, CILEx
11/9	CEO	Professor Stephen Mayson
11/9	CEO	Regulators CEOs
12/9	Chair	Director of Public Prosecutions
12/9	CEO	CEO, CIPA
13/9	CEO	Sarah Chambers, LSCP
13/9	CEO	CEO, IPReg
16/9	CEO	Mark Sweeney, MoJ
17/9	Chair, CEO	ICAEW