



**FINAL Minutes of the Legal Services Board (LSB) meeting held on 26 November 2019**

**Date:** 26 November 2019  
**Time:** 10:30 – 10:50 (Board private session)  
10:50 – 14:30 (Board meeting)

**Venue:** LSB offices, The Rookery, London WC1A 1DE

**Present:** Dr Helen Phillips Chairing the meeting  
**(Members)** Matthew Hill Chief Executive  
Catherine Brown (until item 8)  
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  
Angela Latta Regulatory Policy Principal (item 5)  
Chris Nichols Policy Director  
Steph North Corporate Governance Manager (minutes)  
Holly Perry Head of Corporate Services  
Jenny Prior Corporate Services Manager (item 8)  
Danielle Viall General Counsel  
Caroline Wallace Strategy Director

**External attendance:**

Prof Stephen Mayson (Item 3)  
Kate Briscoe CEO and founder, Legal Beagles, item 15

**Observing the meeting:**

Rachael Goldwater Corporate Affairs Assistant  
Tom May Research Manager (item 3)  
Paul Nezandonyi Communications Adviser  
Toakase Tonga Legal Adviser

## BOARD MEETING

### Item 1 - Welcome and apologies

- 1.1 The Chair welcomed all those present to the meeting, a new colleague who had joined the LSB as Corporate Affairs Assistant, and a colleague who would fill the role of interim General Counsel from 1 January 2020. 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) 55 refers – Professor Mayson findings of the interim report into reform of the legal services regulatory framework.

- 3.1 Professor Mayson provided an overview of the findings of his interim report. Owing to the upcoming General Election, he now expected to publish his final report in Spring 2020. Key issues to be resolved before then included:
- The definition of legal services and legal providers.
  - The emphasis to give to risk including an assessment of risk on a graduated basis.
  - Voluntary or mandatory registration.
  - The potential for a single regulator.
  - The role of title.
  - The potential for an expanded role for the legal ombudsman and a possible new way for the resolution of consumer disputes.
- 3.2 Board members **noted** the update and the following points were raised in discussion:
- *Was there an evidence base to support reform of the ombudsman system –* Professor Mayson reported that initial responses to the consultation suggested that a new approach may yield better results.
  - *Was a graduated approach to risk-based regulation practical to implement as the world and legal problems get more complex –* In Professor Mayson's view it was important to consider where vulnerability lay and it could be possible to organise where regulation impacted according to 'packages' of risk.
  - *Internal governance rules –* in Professor Mayson's view the new rules had taken the system further towards the limits likely to be imposed under the current framework.
  - Joint education and training could be considered to help cover gaps in the family and criminal courts – Professor Mayson did not view that this would require fusion of title but rather title and regulation could be disaggregated.
  - *Should the teaching of legal ethics be compulsory –* Professor Mayson said he would welcome approaches to training that support the development of ethical behaviour across the market. He queried whether professional ethics were separate to professional standards and conduct.
  - *Should reserved activities remain the same –* Professor Mayson argued that the concept of reserved activities was outdated and should be removed.
  - *Were the recommendations likely to have traction with Government –* Professor Mayson suggested that would depend on ministerial and

departmental appetite.

- 3.3 The Chair on behalf of the Board thanked Professor Mayson for a stimulating discussion and welcomed continuing engagement with his work.

#### **Item 4 – Paper (19) 56 - Chief Executive's progress report**

- 4.1 The CEO presented his progress report, highlighting that since the paper had been drafted:
- Colleagues had worked well with their ICAEW counterparts with the effect that ICAEW were likely to come into relatively early compliance with the IGR without needing exemptions.
  - The Chair had received further correspondence from the SRA Chair regarding the upcoming decision on the second part of the Solicitors' Qualifying Exam (SQE) application. The LSB had set out its position again that while it did not seek to place obstacles in the way of approval in the current phase, it was clear that the outstanding technical issues needed to be resolved, and concerns raised by stakeholders properly engaged with. It would be proceeding to work with the SRA to convene appropriate stakeholder discussions.
- 4.2 Board members **reviewed** the Chief Executive's report, and the following points were raised in discussion:
- SQE – it was noted that the media had reported that the SRA did not propose to translate the SQE into Welsh, although it was noted that the actual position is still being developed.
  - Social mobility – it was encouraging to note in the horizon-scanning report that various law firms were undertaking some positive work in relation to social mobility.
  - Anti-money laundering – the concerns highlighted in the press reports were on the radar of the LSB regulatory performance team and relationship managers.
  - Ethical environment for in-house lawyers – the executive would review the report and consider whether or not the LSB should be doing more in this area and update the Board (action).
  - Executive to circulate a note on the CILEx Regulation education and training application (action).
  - Commission for Justice in Wales – executive to arrange a discussion (possibly in Wales) with John Thomas in the next few months (action).
- 4.3 Board members **noted** the CEO Report and noted that only minimal and inconsequential redaction of papers had been proposed in recent papers, reflecting the LSB's commitment to increasing transparency.

#### **Item 5 – Paper (19) 57 - The future of regulatory performance**

- 5.1 The Regulatory Policy Principal provided an overview of the paper, which set out the preliminary moderated results of the recent regulatory performance assessments. On the governance requirements, there was a sense that not all regulatory bodies had yet fully embraced the regulatory performance framework, in particular in relation to the well-led domain (CILEx Regulation were the only regulator who meet all six outcomes in this area). Overall, there had been a dip in performance since the last

assessments with a number of outcomes remaining unmet and some downgraded owing to a lack of progress on the actions. The LSB has strengthened its approach to regulatory performance, and plans to reinforce adherence through future ongoing monitoring and through IGR compliance inclusion in the framework. The proposed risk-based performance reviews set out in the paper as well as the thematic review would provide the LSB with a deeper understanding of the regulators' ways of working.

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

- The regulatory performance assessments should be published with an explanatory note.
- The regulators had provided feedback on the projected resource required for them to achieve the outcomes.
- The LSB should be mindful of its own continuing adherence to the well led outcomes (action: schedule a follow-up discussion on LSB transparency)
- The LSB should be able to draw conclusions from the planned reviews in relation to controls in place and the control culture at the regulators – culture was a particularly crucial measure with regard to how the regulators could assure themselves that their controls were working.

5.3 The Board **noted** the progress since the publication of the transitional review report in January 2019 and the planned next steps and thanked the executive for their work.

#### **Item 6 – Paper (19) 58 – Draft LSB business plan and budget 2020/21**

6.1 The Executive Director of Strategy introduced the paper, which set out the draft LSB business plan and budget 2020/21. A key difference from previous years was that an increase in budget was proposed, taking into account additional resources to deliver the workplan and a higher research budget. One proposal for new research involved the creation of a standing panel of consumers who would be consulted in real time before / as decisions were made. Owing to purdah restrictions, the consultation was due to launch on 13 December (after the General Election). An eight-week consultation was planned, during which time a stakeholder event would be held.

6.2 The Head of Finance and IT provided an overview of the draft budget which had been developed following a two-stage process: budget holders had been consulted, and resource planning had been undertaken with the result being headcount was viewed as needing to increase. Efficiency savings had also been identified. The Audit and Risk Assurance Committee (ARAC) had approved an earlier draft of the budget, which had already been submitted to the Ministry of Justice.

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

- It was positive to be heading into a period of strategy refresh with a strong sense of purpose.
- There was no proposed additional budget allocated to oversight of the OLC
- References to the market and political contexts were helpful. Reference could helpfully be made to the LSB's efforts to improve its own transparency.
- The establishment of a form of standing panel of consumers would be important to operate alongside the development of a strategy for the LSB and legal services more widely.

- Some drafting points would be reflected, including the following: the causal link between EU exit and loss of trust in institutions; the LSB taking a collaborative approach to its strategy rather than seeking a collaborative strategy; it was premature to reference having made progress in achieving the technology objective; PCF contributions were only a small part of the cost of regulation – the associated cost of under-regulation could also be drawn out.

6.4 The Board **approved** the draft business plan and budget, subject to comments raised, and **agreed** to delegate final sign-off to the Chief Executive and Chair.

#### **Item 7 - Paper (19) 59 - OLC draft budget principles**

7.1 The Director of Regulation and Policy introduced the paper, which set out the OLC's proposed budget for 2020/21. The OLC had proposed an 19.5% increase in their budget.

7.2 The Board did not consider that the information received from the OLC enabled it to support the proposed budget. Further explanation would be sought from the OLC as follows:

- The paperwork received did not fulfil the usual parameters of a business case in that it did not make a sufficiently clear link between the additional resources sought and the benefits to be delivered.
- In order to test assumptions on case volumes, it would be helpful for data to be provided on how many new files have been created in the pre-assessment pool for the first six months of the financial year.
- On the proposed additional investment in staffing resource to support activity on extracting and disseminating intelligence and learning to the professions with a view to raising standards and preventing disputes, the proposals were not considered to capture the ambition in this area that the LSB and others would like to see.
- There was not a sense from the paper of a real focus on more transformational process changes that might take place in the future.
- While supporting the plan to focus resources on the pre-assessment pool at present, the Board challenged the view that further efficiencies cannot be achieved at the investigations stage, particularly for medium and high complexity cases.
- In addition, the references in the document to the highest possible standards of quality raised a question in the Board's mind as to whether, for at least some cases, this bar might be set too high.
- While not directly related to the budget consideration, the Board was clear that an end-to-end KPI should start when the customer first contacts the service. It should be possible to separate those initial enquiries that lead to investigations from those which do not. The Board recognised that this may not be possible until the OLC had modelled the current picture from the Advice, Support, Guidance and Feedback (ASGF) stage.
- The Board was concerned about the high ongoing rate of staff attrition and the view that this seemed unlikely to change. As the new Quality and Feedback Model bedded in, there might be expected to be sustainable performance

improvement, and as a result of initiatives to improve colleague engagement, the Board's expectation was that attrition would reduce.

- The Board also wished to understand better the governance processes that had been applied to the application (and would be applied to future versions); for example, whether it had received detailed review by ARAC and whether it enjoyed the support of the whole Board.

7.3 The Chair would write to the OLC Chair in relation to the points raised (action - complete).

7.4 The Board **agreed** that the budget acceptance criteria should be reviewed in light of the discussion (action).

#### **Item 8 - Paper (19) 60 – LSB's approach to risk including risk appetite**

8.1 The Corporate Services Manager introduced the item which was intended to explore the Board's risk appetite. Prior work had taken place to identify each Board member's individual view of risk appetite in each area outlined – legal, financial, people, policy, governance and relationships. The Board were also presented with the results of the executive's risk appetite, and a discussion followed.

8.2 The Board **agreed** the LSB's risk appetite across the areas of risk outlined, and agreed to **delegate** to ARAC detailed consideration of changes to the risk register to reflect the Board's expression of risk appetite (action).

#### **Item 9 - Paper (19) 61 - Finance Report to 31 October 2019**

9.1 The Head of Finance and IT presented the Finance Report. As at the end of October 2019, there was a £95k underspend, with a £48k underspend forecast at the end of the financial year. This was a significantly lower underspend than in previous years. The Senior Leadership Team would review the budget in January 2020 to identify any additional possible expenditure before the year of the financial year. An update on the capital expenditure position, following completion of the IT and office move projects, would be presented to the Board in January 2020 (action).

9.2 The Board **noted** the Finance Report.

#### **Item 10 – Paper (19) 62 - Plans for the out of London event 2020**

10.1 The Head of Corporate Services provided an overview of the paper which proposed a 2-and-a-half-day Board visit in June 2020 to include various stakeholder engagements and an out of London Board meeting. A lessons learned exercise had been undertaken following the October 2019 Newcastle visit and this had helped to inform the paper.

10.2 The Board considered the paper and the following comments were raised in discussion:

- 2 and a half days was too long. It would be preferable to have a day and a half, and two to three events per year, including a visit to Wales and an evening stakeholder event.
- There needed to be a clear purpose to each visit, with well-considered events and targeted invitees. One possibility was a visit to Liverpool – an area of law active in the area was personal injury, and it was suggested that the Board might visit practitioners in this area of work.
- The executive was also encouraged to reach out to international colleagues who might be visiting London.
- The LSB should be reaching widely and diversely to solicit views on key workstreams and strategic development as part of the out of London Board events.

10.3 The Board **noted** the paper, with comments to be incorporated into the final plan for two events to be held in 2020.

#### **Item 11 - Minutes of the previous meeting – 22 October 2019**

11.1 The Board **approved** the minutes as drafted.

#### **Item 12 – Board action tracker**

12.1 The Board **noted** the action tracker, including that a note on the SQE had been circulated on 22 November 2019.

#### **Item 13 – Papers circulated out of committee since the last meeting**

13.1 The Board **noted** the papers which had been circulated out of committee, and noted that the quarterly performance report had now been submitted to the Ministry of Justice. Comments received on the papers had been incorporated and / or were in hand with the executive.

#### **Item 14 - Forward Look**

14.1 The Board **noted** the draft agenda for the next Board meeting, and that an additional item on *PCF and permitted purposes* had been added since paper distribution.

#### **Item 15 – External speaker – Kate Briscoe**

15.1 The Chair welcomed Kate Briscoe to the meeting and there was a round of introductions. Kate was CEO and founder of Legal Beagles, an online community of people who share knowledge about legal issues set up in 2005.

15.2 Kate provided an overview of Legal Beagles and those who use the site. Highlights included:

- The site was designed to democratise justice and address unmet legal needs, [redacted] **[FoIA exempt s43(2)]**
- Legal Beagles is seen as a barometer of legal needs. There was little traffic on issues which were perceived to be well served by the industry e.g. personal injury

and conveyancing, but much more on issues such as family law where the market was less well served.

- The site is now a corporate entity [REDACTED]  
**[FoIA exempt s43(2)]**
- Kate was keen to increase the percentage of SMEs and consumers getting professional legal advice.
- There was a data sharing agreement in place with the SRA to populate the Just Beagles listings for lawyers in England and Wales website.
- Timeliness was a real issue for consumer e.g. being issued with a parking fine which needed action within 14 days.
- Legal services had been slow to adopt new technology, this was expected to change in the next few years as areas of law like conveyancing were expected to move almost wholly online.
- Artificial intelligence could be used to learn from the data harnessed by the sites, with the intention that future legal queries could be addressed more intelligently.
- There remained concerns around data, privacy and human rights.
- The site was largely self-regulating. Posts were anonymous, and the power of the forum is that generally inaccurate information was corrected without formal moderation.
- Legal Beagles had received a grant from Innovate UK to work with IBM Watson. The data held by Legal Beagles was currently being inputted.

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

- Transparency was in many ways a new way of thinking for legal professionals. The CMA's report in 2016 stated that [they had] *never seen a market less transparent than legal services*.
- 40% of site users reported receiving no response from law firms when enquiring about possible work. Arguably, there was not yet much of an incentive for law firms to innovate, but this was expected to change the coming years.
- On the quality of data, this was to some extent assured by structured data in AI which time stamped each input, as well as peer moderation.
- It was acknowledged that the site also provided a valuable setting in which consumers could provide emotional support to one another – although this was not the primary focus of the site.

15.4 The Chair on behalf of the Board thanked Kate for her presentation and for what had been a fascinating discussion.

## **Item 16 – Reflections**

16.1 The Board reflected on the session in particular how the meeting might have run had it been an open meeting.

## **Item 17 - AOB**

17.1 The Chair on behalf of the Board wished the General Counsel well ahead of her parental leave.



17.2 There was no other business and the meeting closed.

SN 29/11/19

Signed as an accurate record of the meeting

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Date

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