FINAL
Minutes of the Legal Services Board (LSB) meeting held on 18 October 2022

Date:	18 October 2022
Time:	10:30 – 11:00 (Board private session) 11:00 – 14:00 (Board meeting)
Venue:	MS Teams
Present: (Members)	Helen Phillips, chairing the meeting Catherine Brown Jemima Coleman (except items 6 to 9) Stephen Gowland Gary Kildare Flora Page Catharine Seddon Matthew Hill, Chief Executive

In attendance:	Stuart Hamill	Head, Finance and IT
	Angela Latta	Head, Performance and Oversight
	Margie McCrone	Head, Strategy and Policy
	Paul Nezandonyi	Head, Communications and Engagement
	Chris Nichols	Director, Policy and Regulation
	Holly Perry	Director, Enabling Services
	Danielle Viall	General Counsel
	Sophie Crookson	Stakeholder Engagement Manager (item 6)
	Ethan Fleming	Corporate Governance Manager (minutes)
	David Fowlis	Regulatory Policy Manager (item 5)
	Nicola Noble	Senior Legal Advisor (item 5)
	Steve Violet	Regulatory Policy Manager (item 7)
Observing:	Clare Brown	Regulatory Policy Associate
	Helena Charles	Regulatory Policy Associate
	Natalie Donaldson	Communications and Engagement Associate
	Lorena Esposito-Storey	Regulatory Policy Manager
	Cathy Rideout	Executive Assistant
	Radojka Miljevic	Campbell Tickell
	James Tickell	Campbell Tickell
Apologies:	Habib Motani	

Item 1 – Welcome and Apologies

1. Apologies had been received from Habib Montani.

2. Campbell Tickell were observing the meeting as part of the Board evaluation process.

Item 2 – Declarations of Interest Relevant to the business of the Board

3. There were no new relevant declarations of interest to record.

Item 3 – Chief Executives Progress Report

Reflections on the Annual Conference held on 13 October 2022

4. The Head, Communications and Engagement reported that initial feedback in relation to the conference had been very positive with participants reporting that they planned to make changes following the conference, with many citing a shared commitment to meaningful initiatives. A paper capturing the outputs from the conference would be presented to a future meeting. (**action**) There had been particular benefit from the consumer focus and networking with participants. The following points were raised in discussion:
   - Panel discussions worked best when they were interactive and included Q&A sessions with a chair drawing out contrasting points of view.
   - The professional ethics panel had generated a lot of discussion and the LSB should take the lead in convening a group of regulators, consumer groups and academics to examine the issues further. Further engagement should take place with the Solicitors Regulation Authority (SRA) on the misuse of Non-Disclosure Agreements (NDAs). It was noted that there was a campaign to encourage organisations to sign a pledge not to use inappropriate NDAs.
   - The stage/time management might be improved for future events.
   - Whilst the conference was well attended by regulatory bodies, it would have been helpful for more CEOs, Chairs and Board members to have heard the discussion (although it was noted that some did so online). It was hoped that more would attend in future years, given the success of the event.
   - There may be a benefit in holding the conference later in the year to attract more students.
   - The breakfast event had been a success and a good use of the LSB’s ability to convene senior stakeholders.
   - The social media arrangements next time might include reminders of the hashtag at the venue.

CEO’s Report

5. The Chief Executive introduced the item, and the following points were raised in discussion:
   - In relation to financial sanctions, IPREG had been liaising with the IPO and had begun issuing returns to its regulated community. The BSB was currently undertaking a thematic review and although both regulators had been behind in this area, they were showing improvements. The LSB was seeking to convene another roundtable on this issue.
   - Evidence on ensuring regulatory independence as required by the Internal Governance Rules (IGR) was not being sought this year as a hybrid approach was being taken to the annual regulatory performance review. The LSB intended to commence its planned evaluation of the effectiveness of the IGR in the business planning year 2023/24.

6. The Board **noted** the Chief Executive’s report.

Item 4 – Rule of Law Scoping Paper

7. The Head, Strategy and Policy introduced the item, and the following points were raised in discussion:
    - Rule of law and professional ethics were closely interlinked; to be guardians of the rule of law, legal professionals needed strong professional ethics.
    - Care needed be taken when referring to societal values as these would vary across society.
    - It is important for lawyers to understand what is expected of them and the role of regulation in upholding the rule of law.
    - It is also important to be clear that the scope of this work will include all legal professionals, including those employed in-house.
    - Regulators should be encouraged to consider any gaps in their codes of conduct. Codes of practice in other industries may contain provisions that could provide useful insight into promoting ethical behaviours.
    - As had been discussed in the panel session at the LSB's conference, there were examples where breaches of ethical standards did not result in criminal activity but where it would still be appropriate for regulators to intervene.
    - Strong leadership and a cultural shift will be needed to ensure the sector embraces a strengthened regulatory framework that supports ethical decision-making.
    - There was also a need to ensure protection for, and to prevent victimisation of, those in the profession trying to highlight ethics issues.
    - The Post Office Public Inquiry is likely to highlight helpful examples in relation to this subject. Continued engagement with academic experts would also be beneficial to inform our work.
    - An update would be presented in early 2023. (**action**)

8. The Board **discussed** and **noted** the scope and next steps for the Rule of Law and professional ethics project.

Item 5 – Regulatory Performance Framework Review

9. The Regulatory Policy Manager introduced the item, and the following points were raised in discussion:
    - The approach adopted would enhance accountability and was in line with the principles of better regulation. Effective regulators should not experience an increase in regulatory costs from the new framework's implementation.
    - The LSB would review feedback about regulators it received from consumers and the regulated communities as part of its assessment process.
    - The sourcebook would only contain regulatory requirements that had previously been consulted on as part of their development. Although the sourcebook would be reviewed annually, new policy statements, rules and guidance would be added to it when published along with, where applicable or appropriate, timescales for their implementation.
    - The response document should expressly address comments about the LSB's remit in order to correct any misunderstandings.
    - Consideration should be given to including further examples of evidence in the sourcebook about how regulators can show that they are working to improve diversity in the legal profession
    - The process document should be revised to note that a review could result from a single complaint about a regulator.

10. The Board **agreed** the consultation response document and framework documents for publication and **delegated** to the Chief Executive approval of any final minor amendments.

Item 6 – Proposals for Regional and Welsh Engagement

11. The Stakeholder and Engagement Manager introduced the item, and the following points were raised in discussion:
    - The engagement planned in Wales beyond Cardiff was positive and North Wales should be considered in the future.
    - Although stakeholder specific sessions could be helpful in specific circumstances, thematic based engagement was preferred.
    - There was a need to attract senior members of large law firms and in house lawyers to help drive the change agenda.

12. The Board **agreed** the proposed approach to regional engagement across England and Wales for 2023/24.

Item 7 - Mapping Unregulated Legal Services

13. The Regulatory Policy Manager introduced the item and reported that further analysis of our current evidence base on consumer detriment in the unregulated sector did not provide a strong case to indicate immediate changes to the reserved legal activities in the Act were necessary, and noted our competing work programme priorities. However, there would be value in undertaking a first-principles analysis of the existing reserved legal activities. The following points were raised in discussion:
    - The absence of a formal Ongoing Competence system in the unregulated sector was a disadvantage compared with regulated legal services that should be noted.
    - Review sites such as Trust Pilot may not always show the full picture, so there should not be too much reliance placed on findings presenting positive or negative feedback in isolation.
    - In our further work, we should ensure we learn lessons from a previous review of reserved legal activities between 2011-2013, where the LSB made a recommendation for changes to the reserved legal activities to the Lord Chancellor that was rejected.
    - There were some examples of consumer detriment with wills and employment law, in particular. Further contributions to the evidence base noted in the paper may build on this.

14. The Board **agreed** to proceed to undertake a first-principles analysis of the existing reserved legal activities and **agreed** that this further work be used to inform any future Board decision.

Item 8 - First Tier Complaints

15. The Regulatory Policy Associate introduced the item, and the following points were raised in discussion:

- There might be more scope for LeO and the frontline regulators to produce case studies to share and take forward lessons learnt. Lessons learnt should not be confined to improving complaints handling but addressing root causes and improving the consumer experience. Regulatory bodies also had a responsibility for identifying lessons learnt and supporting people in framing complaints.
- Complaints data could be used as part of a surveillance strategy for the market, which has been discussed by the Board previously.
- Consideration should be given to how to address difficult barriers experienced by minority ethnic groups in making complaints, including issues such as power imbalances and lack of trust in the system.
- The financial services model may have learnings that could be applied in this area such as enhancing the focus on consumers and how and when they received redress information.
- Standardisation in information made available to consumers to support them making complaints across regulators may be helpful. Technology could also be used to improve consumers' experience when making complaints.

16. The Board **agreed** that revised draft Requirements and Guidance should be developed for consideration by the Board in early 2023.

Item 9 - SDT Budget

17. The Head, Strategy and Policy introduced the item and reported that a paper had not been presented due to changes to the SDT's accommodation requirements since the initial budget application had been received, which had budget implications.

18. The Board noted the Executives intention to request that the SDT provide a revised application that set out clearly what costs were certain and based the remaining costs relating to the change to the SDT's accommodation requirements on reasonable assumptions. It was noted that it was regretful that the SDT did not have full insight of its historic court utilisation rates, which would be helpful in these circumstances. The Board noted it would be asked to consider the revised budget application at a future meeting.

19. The Board **noted** the oral update.

Item 10 - ARAC Update

20. The Chair of ARAC reported that the last meeting held on 5 October had been inquorate with the decisions having to be ratified via a decision note after the meeting. The Committee was looking to recruitment an independent member with finance skills.

21. The Committee had considered the budget ahead of it being submitted to the Board in November for consultation. In reviewing the risk register, the Committee had asked the executive to consider a new risk relating to the impact of the cost-of-living crisis on law firms and how this may affect regulation and the risk of public sector cuts on the LSB. The Committee had also discussed market surveillance and how this could help bring proactivity and more depth to regulatory endeavours.

22. The Board **agreed** to appoint an independent member to ARAC.

Item 11 - Finance Report to 30 September

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

Item 12 - Minutes of the previous meeting

24. The Board **agreed** the minutes of the 8 September and 13 September as drafted.

Item 13 - Board Action Tracker

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

Item 14 - Papers Circulated out of Committee since the last meeting

26. There were no items to note.

Item 15 - Forward Look

27. The Board **noted** the forward look.

Item 16 – AOB

28. Board Members were reminded to complete the recently issued diversity survey.

Reflections on the meeting

29. The meeting had been positive and highly participative with Board Members building on each other’s contributions. Allowing enough time for discussion was important and having significant discussion items at the start of the agenda had also been helpful.