Minutes of the Legal Services Board (LSB) meeting held on 21 March 2023

Date:	21 March 2023	
Time:	10:30 – 11:00 (Board private intelligence sharing session) 11:00 – 14:30 (Private Board meeting)	
Venue:	LSB Offices	
Present: (Members)	Helen Phillips, chairing the meeting[1] Catherine Brown Jemima Coleman Stephen Gowland Gary Kildare Habib Motani Flora Page Catharine Seddon Matthew Hill, Chief Executive	
In attendance:	Lola Bello	Consumer Panel Manager (item 7)
	Robin Geddes	Regulatory Policy Manager (item 4)
	Stuart Hamill	Head, Finance and IT
	Angela Latta	Head, Performance and Oversight
	Tom May	Research Manager (item 6)
	Margie McCrone	Head, Strategy and Policy
	Steve Violet	Regulatory Policy Manager (item 9)
	Holly Perry	Director, Enabling Services
	Paul Nezandonyi	Head, Communications and Engagement
	Toakase Tonga	Senior Legal Advisor (item 5)
	Suganya Suriyakumaran	Regulatory Policy Manager (item 4)
	Ethan Fleming	Corporate Governance Manager (minutes)
	Sarah Chambers	Chair LSCP (item 7)
	Elisabeth Davies	Chair OLC (item 8)
	Paul McFadden	Chief Ombudsman LeO (item 8)
Observing:	Alan Kershaw, Natalie Donaldson, Heidi Evelyn (item 7)	
Apologies:	None received	

Item 1 - Welcome and Apologies

1. Alan Kershaw was welcomed to the meeting as the Chair Designate.

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

2. Gary Kildare was due to be appointed as a non-executive director at Crowe LLP from April 2023. It was noted that Crowe LLP were the internal auditors to the LSB, however no unmanageable conflicts of interest were expected to emerge.

[1] Helen Phillips joined the meeting at Item 5. The meeting until then was chaired by Catherine Brown. While there was a parity of lay and non-lay members, owing to a lay vacancy on the Board, the meeting remained quorate.

Item 3 - Chief Executive's progress report

3. The Chief Executive introduced the item, and the following points were raised in discussion:
    - The Office of Financial Sanctions Implementation (OFSI) is part of the Treasury which was working hard to manage the increased workload arising from the Ukraine invasion, but with limited resources. There are opportunities for better collaboration between the various parts of government, the LSB and the legal regulators, and the LSB had made the Ministry of Justice (MoJ) aware of the issues and would consider writing to Ministers (**action**). A general licence had been introduced in December. However some law firms remained reluctant to make use of it sue to lack of clarity on a range of matters.
    - The letter to regulators to encourage assurance mapping in the context of the new Performance Framework had been built upon in regular relationship management meetings. A number of regulators have reported that they are working on the mapping and the BSB had confirmed that they planned to build assurance mapping into their action plan. Overall, comments had been positive, with regulators receptive to the new approach.
    - The Board noted the update on SQE. In particular it noted that it would be helpful to have a breakdown of the diversity of SQE solicitor apprentices; and that the pass rate for BAME candidates in the first round had been lower than for white candidates and firms were considering strategies to support and improve the results. The Board would be interested in future analysis of a comparison between the traditional route and the apprenticeship route and if the apprenticeships route had increased pass rate from BAME candidates.
    - Suggestions for Board speakers on diversity and AI and Lawtech would be topical and helpful. (**action**)
    - It was disappointing to see the UK dropping down Transparency International's ranking. While the LSB has no direct influence over this, it is relevant to our work on professional ethics and the rule of law. There were upcoming opportunities, such as engagement with our professional ethics reference group, to consider this issue and the LSB has relationships with anti-corruption organisations as part of its work in this area.
    - The Board noted recent LSB attendance at conferences which was a positive step towards broadening the LSB's reach and increasing the awareness of its role.
    - There still appeared to be a fear of speaking out against discrimination in the workplace within the sector, and the approach to whistleblowing was raised for inclusion in future policy work related to ethics and the rule of law.
    - Wider publication of statutory decisions on social media would be considered to assist with continuing to raise awareness of the LSB's responsibilities **(action).**
    - The Board noted the points raised by Lawtech on AI and society in general were valid criticisms, and that we should continue to engage with Lawtech and others on the role of regulation in this area.

4. The Board **noted** the Chief Executive's report.

Item 4 - Final LSB Business Plan and Budget 2023/24

5. The Regulatory Policy Manager introduced the item and reported that the in-person consultation event held in January had been well attended, particularly by consumer support organisations. We received a range of submissions, with broad support for the business plan and budget, although it was noted that the Bar Council's response did not support some of the planned activities and referenced their publicly-stated views on the LSB's remit. ARAC had reviewed the budget and recommended it to the Board. The following points were raised in discussion:
    - Further examples should be given to help explain the difference in roles between the statutory Legal Services Consumer Panel (LSCP) and the "Public Panel" (which was a survey research tool).
    - The business plan should be clear that all of the LSB's resources were spent either delivering, or supporting the delivery of, the LSB's statutory functions.
    - Regulation is respect of litigation funding should be considered in the Access to Justice workstream.
    - In the new Consumer Vulnerability workstream, greater use of inclusive design should be emphasised to assist vulnerable consumers at an earlier stage when they are seeking legal services.

6. The Board **agreed** the LSB Business Plan and Budget 2023/24 and **delegated** to the Chief Executive approval of the documents to be published by 31 March 2023.

Item 5 - Further Assurance on LSB's Remit

7. The CEO introduced the item, and the following points were raised in discussion:
    - The Board continued to be confident that the LSB was acting within its powers and obligations under the Legal Services Act in its strategic approach to oversight of regulation in the legal services sector.
    - The LSB would continue to consider and assure itself of its remit in discharging its functions including reflecting that assurance in publications, as appropriate,

8. The Board **noted** the assurance provided in relation to the LSB's remit.

Item 6 - Research Data Digest

9. The Research Manager introduced the item, and the following points were raised in discussion:
    - While it was useful to continue to collect and analyse data on a broad range of indicators, having a smaller number of key indicators would help with consumer understanding of how progress against the challenges in the strategy was being measured.
    - On areas such as diversity, where one key indicator was difficult to establish, further collaboration and discussion with stakeholders should be undertaken to help identify other key indicators which could provide a fuller assessment of progress and the best way to gather data.
    - It would be helpful to consider if population markers should be included and used to support the new Market Analysis workstream. There should be a culture in the profession where data was routinely collected and acted upon.
    - Trust in the legal profession remained high and this had been chosen as a potential key indicator as it related to overall population rather than consumer satisfaction, which only reflected those who had used legal services.

- In the Office for Legal Complaints' (OLC) consideration of its strategy refresh, which the Board would be engaging with it on soon, it may wish to consider if success could be measured in relation to trust and consumer confidence.

10. The Board **discussed** the research findings.

Item 7 - LSCP Workplan 2023/24

11. The Chair of the Legal Services Consumer Panel (LSCP) introduced the item, and the following points were raised in discussion:
    - The workplan was welcomed as a very thorough, clear and focused piece of work.
    - Sector-wide work on quality indicators was positive, but moving at a slow pace, and we would be continuing to make sure the regulators were implementing outcomes in the LSB's consumer empowerment policy statement relating to quality.
    - The LSB executive had proposed whether a different approach to Stage 2 of the research on consumer-focused regulation might be explored, to provide the LSCP the opportunity to support the LSB's annual performance assessments of the regulators. The LSCP Chair needed to consider this further alongside panel members. There were some positives with the proposed change of direction, but also some risks for the LSCP. The proposals would be fully considered, alongside the potential impacts of the independence of the relationship between the LSCP and LSB.
    - There was general support for the Legal Ombudsman (LeO) publishing decisions in full. Alongside this, it was important for LeO to publish thematic and highlight summaries, to encourage improved complaints handling and raising standards in the profession.
    - Law schools at universities played an important role in addressing unmet legal need but were not large enough to make a universal improvement in LSCP's opinion.

12. The Board **endorsed** the LSCP Workplan 2023/24, and thanked the Panel Chair and Panel secretariat for their hard work.

Item 8 - OLC Budget Application

13. The Chair of the OLC introduced the item and reported that previous LSB feedback had been taken account of, as had feedback from stakeholders during the consultation period. The OLC had held a workshop which focused on its strategic objective 3 (support improvements in the sector) and what more could be done to address it, now and as part of the strategy development it was undertaking. There was a continued commitment to explore outsourcing and to address recruitment and retention challenges. The following points were raised in discussion:
    - It had been made clear to staff that an 8% pay award may not be approved by MoJ and that the budget may be used to resource non-pay options aimed at staff recruitment and retention. Rather than not draw down the money, it may be better spent on further work on hubs as a contingency. Outsourcing may also act as a contingency for a smaller pay award. Further assurance on the OLC's plans if an 8% pay award was not approved would be helpful.
    - It was good to see the positive momentum being built on in LeO's performance, and care needed to be taken to continue this trajectory and reduce the average time per case.

- The LSB was supportive of publishing decisions in full to assist in transparency and improving standards in the sector. The OLC had previously considered this and would be reassessing this in the future. There was a cost associated with publishing decisions in full, mainly in making sure they were consistent and of sufficient quality. It was also questionable if publication in full provided greater benefits than providing thematic or targeted publications.
- To help with demand management, the OLC could place greater focus on supporting the improvement of the handling of complaints at tier 1, target sectors with the most complaints such as conveyancing, or specific firms that had a large number of complaints. This would be in line with its strategic objective 3 and the need to improve the sector and feedback to regulators. OLC may also wish to consider in its strategy refresh how it could improve trust and confidence in the sector and what indicators may be of assistance in this.
- The budget for 2023/24 for objective 3 and the need to improve the sector and feedback to regulators had not increased in line with inflation and the OLC should monitor this spend on a quarterly basis.

14. The Board **agreed** the OLC Budget Application 2023/24.

Item 9 - Scope of Regulation

15. The Regulatory Policy Manager introduced the item, and the following points were raised in discussion:
    - It would be important to seek assurance from regulators that oversee probate and reserved instrument activities that their arrangements were sufficiently clear and effective in terms of the risks identified by the CMA.
    - Ongoing engagement was planned with bodies involved in this area and the work of the regulators such as the SRA, which was conducting research into the unregulated legal services market, to monitor if conditions changed and there was a need to revisit the scope of regulation.
    - Access to justice could be improved by greater use of unregulated lawyers who were not carrying out reserved legal activities, such as housing or debt advice.

16. The Board **agreed** that analysis did not support further action in relation to the configuration of Reserved Legal Activities at this time, although work would be needed to address risks identified by the CMA.

Item 10 – Audit Risk and Assurance Committee Update

17. The Chair of ARAC reported that at its March meeting, the Committee had agreed the internal audit plan for the next year and received an internal audit report on Equality Diversity and Inclusion (EDI) which had given substantial assurance on the LSB's policy work in this area. The Committee had also discussed the Corporate Risk Register and, sitting as a Finance Committee, had scrutinised the proposed budget. There had also been a closed session with the internal auditors at the end of the meeting.

18. The Board **noted** the ARAC update and **agreed** the ARAC Annual Report 2022/23.

Item 11 – Remuneration and Nomination Committee Update

19. The Chair of RNC reported that the Committee had received a presentation on the LSB's pension arrangements, as well as an update on non executive appointments an

reappointments - planning was underway for OLC and LSCP recruitment. Flexible working arrangements continued to work well, and the executive were investigating ways to recruit and retain staff in the event only a small pay award was given.

20. The submission for the new LSB Board Members had not yet been made to Ministers. Once a decision was made, a two-week consultation needed to take place with the Lord Chief Justice on the proposed appointments. To mitigate the risk of vacancy, provision had been made to extend Jemima Coleman's term. The delays in public appointments had been raised at a meeting of MoJ ARAC Chairs as a concern across MoJ.

21. The Board **noted** the RNC update and **agreed** the RNC Annual Report.

Item 12 - Finance report to 28 February 2023

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

Item 13 – Annual Review of LSB's Health & Safety Policy

23. The Board **agreed** the Health and Safety policy.

Item 14 - Minutes of the Previous Meeting – 21 February 2023

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

Item 15 - Action Tracker

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

Item 16 – Items circulated of out committee since the last meeting

26. The Board **noted** the items circulated out of committee.

Item 17 - Forward Look

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

Item 18 – AOB

28. There was no AOB discussed.

Item 19 - Wrap Up and Summary

29. Relationships with the LSCP and OLC were positive, and it would be helpful to have more informal time with them to help build upon this.

30. The discussion in the meeting had been constructive with contributions building on each other and Board Members being open to developing their views iteratively. This had been helped by facilitation by the Chair.

31. The Chair thanked Jemima Coleman for her tenure on the Board and her contributions across a number of projects and the personal growth she had shown.

32. Catharine Seddon thanked the Chair for her significant leadership and the improvements she had driven across the sector.