FINAL

Minutes of the Legal Services Board (LSB) meeting held on 25 April 2023

Date:	25 April 2023	
Time:	10:30 – 11:30 (Board private session) 11:30 – 14:30 (Board meeting)	
Venue:	LSB office	
Present: **(Members)**	Alan Kershaw, chairing the meeting Catherine Brown Jemima Coleman Gary Kildare Habib Motani Flora Page Catharine Seddon Matthew Hill, Chief Executive	
In attendance:	Sally Al-Saleem	Regulatory Policy Manager (item 4)
	Robin Geddes	Regulatory Policy Manager (item 5)
	Stuart Hamill	Head, Finance and IT
	Angela Latta	Head, Performance and Oversight
	Tom May	Research Manager (item 6,7)
	Margie McCrone	Head, Strategy and Policy
	Holly Perry	Director, Enabling Services
	Paul Nezandonyi	Head, Communications and Engagement
	Ethan Fleming	Corporate Governance Manager (minutes)
Observing:	Natalie Donaldson	
Apologies:	Stephen Gowland	

Item 1 – Welcome and Apologies

1. Apologies had been received from Stephen Gowland.

2. Jemima Coleman's second term of office had been extended to 31 May 2023 whilst the appointment of new Board Members was progressing.

3. The Board away day initially planned for 23 May would be moved to a later date.

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

4. There were no declarations of interest relevant to the business of the meeting.

Item 3 - CEO's Report

5. The CEO introduced the item, and the following points were raised in discussion:
   - The results of the LSB's colleague inclusion survey were positive overall; however it was disappointing to note the reference to bullying. While the issues were very limited in nature, they had not been formally raised within the organisation and the

reasons for this would be explored in the planned focus groups. A briefing on the routes to raise concerns would be circulated to the Board and LSB staff. (**action**)

- The executive had received a revised action plan from the Bar Standards Board (BSB) which would be circulated to the Board shortly.
- There was still enthusiasm from external stakeholders to contribute to the microsite. Hits to the site would be reported on in future quarterly performance reports.
- The shift in focus by Lawtech UK to access to justice and addressing unmet legal needs through technology and innovation was positive.
- There was a question as to the extent to which lawyers received training on technology as part of their professional education. Assurance on this had been sought as part of the process of developing the Solicitors Qualifying Exam (SQE).
- The professional ethical conduct of in-house legal professionals was an area of focus in the LSB's work on the rule of law. It was noted that there had been in-house counsel representation at the roundtable on professional ethics hosted by the LSB in March. The Board welcomed this and also noted with interest the group of in-house counsel's response to the recent Solicitors Regulation Authority (SRA) thematic review on in-house solicitors.
- The Law Society had published guidance on the climate crisis which sets out how risks from climate change may be relevant to client advice and how solicitors could consider their professional duties when providing advice on climate issues. This guidance was supported by the SRA but should not be interpreted as the SRA's regulatory position on the issues. The LSB would be considering the work and what this may mean for the LSB's policy positions.
- There had been a range of feedback to the LSB's recommendation to regulators to carry out assurance mapping as part of the regulatory performance framework. The SRA had developed a sophisticated approach whilst others had requested further guidance.
- The SRA had been criticised for its approach to disclosure in a recent case at the Solicitors Disciplinary Trial (SDT), noting this was not the first time it had occurred. The executive had raised ongoing concerns about the quality of SRA's enforcement work including via the regulatory performance review. When reviewing the SRA's application to apply the new higher financial penalties, the LSB would raise the need for a high-quality enforcement process to support these.

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

Item 4 - Rule of Law and Professional Ethics

7. The Regulatory Policy Manager introduced the item, and the following points were raised in discussion:
    - There was a need to continue to encourage the Office of Financial Sanctions Implementation (OFSI) to share data and consideration should be given to writing to HM Treasury to ensure this following planned engagement with OFSI and MoJ. (**action**)
    - The momentum-building and convening phase of work on professional ethics was important, but this should not be lengthened at a risk of delaying deployment of regulatory tools where these are needed. The overall plan was to consult informally on policy implications arising from stakeholder engagement and research during 2023, followed possibly by a formal consultation in 2024. Within this workstream, there was an opportunity to consider specific items such

as misuse of Non-Disclosure Agreements (NDAs) and Strategic Lawsuits Against Public Participation (SLAPPs) sooner.
- The regulatory infrastructure was being examined to see what steps could be taken to strengthen it in relation to the themes that had emerged from the recent stakeholder round table, particularly on education and training.
- The success framework outlined in the Equality Diversity and Inclusion (EDI) approach could be of benefit to this project.
- There was evidence to suggest that different areas of practice may require different expectations e.g. as set out in codes of conduct. In-house lawyers may also require different approaches as there were different motivations to their work.
- The call for evidence on the misuse of NDAs took into account the past work done by the House of Commons, complaints data from the SRA and previous comments from the Board to ensure the evidence was helpful and in the correct context to aid LSB’s work. Since the publication of the January Board update, a number of organisations had reached out to the LSB to contribute evidence.

8. The Board **noted** the Rule of Law and Professional Ethics update.

Item 5 - Ongoing Competence

9. The Regulatory Policy Manager introduced the item, and the following points were raised in discussion:
   - Cultural change took time to achieve but it was positive to see the beginnings of change.
   - There was a need to ensure that the work on Ongoing Competence and Professional ethics dovetailed sufficiently. Professional ethics were a fundamental building block in the delivery of high-quality legal services.
   - Although the early signs were promising, it was important to have assurance as to how the proposals would work in practice and provide support where required.
   - Remediation was an important aspect and disciplinary action should target addressing poor performance and improving competence wherever possible. Currently it was not clear how often remediation was being used and in what context, for example, when and how training was ordered as part of disciplinary action.
   - As well as reviewing Continuing Professional Development (CPD) arrangements, there needed to be a focus on understanding levels of competence across the professions and adopting upstream mechanisms to ensure competence is maintained.

10. The Board **noted** the Ongoing Competence update.

Item 6 - EDI Lived Experience Research Presentation

11. The Research Manager introduced the item, and the following points were raised in discussion:
    - The sample had not been intended to be representative as the work was designed specifically to gain qualitative rather than quantitative insights. Qualitative research could provide powerful evidence and stories about the lived experience of individuals or groups. This would be made clear when publishing.

- The research was one aspect of the research programme/EDI work on which policies and decisions would be made, and further research was being considered to build on the findings.
- The finding was powerful that counter-inclusive practices had wide-reaching impacts on individuals' wellbeing and productivity, the culture within firms and chambers and missed opportunities to grow diverse talent in the profession.

12. The Board **noted** the EDI Lived Experience Research.

Item 7 - EDI Programme

13. The Head, Performance and Oversight introduced the item. The Board noted that the new principles for disciplinary processes had not yet been evaluated, although anecdotal evidence suggested an improvement. The disciplinary processes themselves could be counter inclusive and the LSB was encouraging better and more sophisticated data collection to provide insights. It was noted that different areas of practice had different demographics and certain areas got more complaints than others.

14. The Board **noted** the EDI Programme.

Item 8 - Finance Report to 31 March

15. The Head, Finance and IT introduced the item and reported that the underspend was well within the Ministry of Justice (MoJ's) 1% threshold. The draft accounts based on these figures had been sent to Deloitte for the external audit. The following points were raised in discussion:
    - The Board commended colleagues on delivering the budget with such precision; this represented the fourth consecutive year of correcting the LSB's historical underspends. Expenditure continued to provide value for money and delivered the LSB's intended outcomes.
    - Chairs for homeworking had been classed as capital expenditure. In the event of staff leaving there was a process for recovery of the chairs.

16. The Board **noted** the Finance report to 31 March 2023.

Item 9 – Minutes of the Previous Meeting

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

Item 10 - Board Action Tracker

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

Item 11 - Papers circulated out of committee since last meeting

19. There were no papers for noting.

Item 12 - Forward Look

20. The Board **noted** the Forward Look.

Item 13 - AOB

21. There were no items discussed.

Item 14 - Wrap up and Summary

22. Overall, it had been a good meeting with a longer private session allowing for additional intelligence sharing. The topics on the agenda had some synergy, which had aided discussion. It was noted that it was unusual to have an agenda that did not require any formal Board decisions.