

FINAL

Minutes of the Legal Services Board (LSB) meeting held on 6 June 2023

Date: 6 June 2023
Time: 12:30 – 13:00 (Board private session)
13:00 – 16:00 (Board meeting)

Venue: LSB office

Present: Alan Kershaw, chairing the meeting
(Members) Katherine Briscoe
Catherine Brown
Clare Brown
Stephen Gowland
Gary Kildare
Habib Motani
Catharine Seddon
Matthew Hill, Chief Executive

In attendance:	Dr Louise Ashley	Board Speaker
	Clare Brown	Regulatory Policy Associate (item 5)
	Lorena Esposito-Storey	Regulatory Policy Manager (item 6)
	David Fowlis	Regulatory Policy Manager (item 7)
	Stuart Hamill	Head, Finance and IT
	Angela Latta	Head, Performance and Oversight
	Margie McCrone	Head, Strategy and Policy
	Danielle Viall	General Counsel
	Holly Perry	Director, Enabling Services
	Paul Nezandonyi	Head, Communications and Engagement
	Toakase Tonga	Senior Legal Advisor (item 5)
	Ethan Fleming	Corporate Governance Manager (minutes)

Observing: Richard Orpin, Director, Regulation and Policy designate

Apologies: Flora Page

Item 1 - Board Speaker

1. The Board hosted a Board speaker session with Dr Louise Ashley, Senior Lecturer at Queen Mary University of London, on Equality, Diversity and Inclusion (EDI). The Board would reflect further on the points arising in the discussions, particularly the impact on the LSB's EDI work programme.

Item 2 - Welcome | Apologies

2. The Board welcomed Clare Brown and Kate Briscoe to their first LSB Board meeting.
3. Apologies had been received from Flora Page, who had provided written comments.
4. The Board welcomed Richard Orpin who would take up the post of Director, Regulation and Policy on 12 June.

5. The Board approved the appointment of Habib Motani to the Remuneration and Nomination Committee with immediate effect.

Item 3 - Declarations of Interest relevant to the business of the Board

6. Kate Briscoe was currently a member of the SRA's external expert panel. *Post meeting note:* Kate Briscoe stood down from the panel with effect from 7 June 2023.

Item 4 - Chief Executive's Report

7. The CEO presented the report, and the following points were raised in discussion:
 - The OLC had asked whether the time was right to review the format of its voluntary assurance letters. These continued to be a useful source of assurance for the Board but might be improved by being shorter and more strategic to allow the Board to focus on the most pressing issues. Although performance was improving, there was still further progress to be made and a need to maintain momentum to achieve the current trajectory. There would be opportunities to discuss strategic issues at the upcoming board to board and via the budget planning process.
 - The Board welcomed the clear analysis of statutory decisions and the benefits of providing feedback to regulators. The stronger focus on EDI was also positive.
 - The BSB had submitted a voluntary assurance letter, the content of which was encouraging. The forthcoming regulatory performance assessment would test the robustness of the improvements.
 - A first post-investigation monitoring meeting had been held with CILEX and CRL. Both parties were engaging with each other professionally. While it was recognised that the relationship might be tested more rigorously as potentially controversial decisions came to be made in the future, the senior leaders present had committed to endeavour to maintain effective interpersonal relationships. Board engagement was not required at this time.
 - The CEO had attended a conference on economic crime which had been a useful opportunity to build awareness of the LSB and, more widely, of how the legal sector featured in economic crime. The conference had highlighted the need for better coordination and leadership across different sectors, with increased data sharing.
8. The Board **noted** the CEO's report.

Item 5 - Consumer redress

9. The Regulatory Policy Associate introduced the item and reported that the original plan to update the existing 2016 rules and guidance might not have been sufficient, on its own, to achieve the policy aims. It was therefore proposed to consult additionally on a short statement of policy for regulators, and to build a coalition of stakeholders to drive change. The following points were raised in discussion:
 - The primary research carried out was small but reinforced findings from elsewhere on the topic.
 - The consultation should explore the difference between paid-for legal services and publicly funded and pro bono services, and whether or not this should have an impact on complaints handling.

- The work should be more ambitious in taking a proactive approach to accessibility and demonstrating that issues had been identified and addressed. The work should emphasise that good complaint handling had the potential to deliver a tangible benefit to providers as well as to consumers.
- If possible, more emphasis should be placed on EDI data collection and whether or not ethnicity affected the ability to make complaints, the number of complaints and the nature of complaints.
- We should seek through the coalition of stakeholders to agree that good complaints handling was in the public interest and may help to uphold the rule of law and access to justice.
- Our work should emphasise that there were benefits to receiving feedback, including to enable the identification of themes and trends in complaints and thereby improve in these areas.
- The term “consumer” is referencing the Legal Services Act but there could be benefit in broadening the scope and potentially referring to “citizens” or “users of legal services”.
- It may be helpful to consider if Continuing Professional Development (CPD) should be required that focuses on client care/dealing with consumers.
- Care should be taken if requiring that an independent person reviews complaints as this might not be possible for small firms/sole practitioners.
- An improvement in first tier complaints handling would have a positive effect on second tier complaints.

10. The Board **agreed** to develop the following for consultation:

- revised draft statutory s112 requirements and accompanying draft s162 guidance
- a new draft Statement of Policy
- plans for the LSB to convene a coalition of stakeholders

Item 6 - Guidance: Technology for Access

11. The Regulatory Policy Manager introduced the item and reported that the draft guidance was outcomes-based and not technology specific – this is to ensure that the guidance could encompass all technologies both current and emerging; and help future-proof it as new developments emerged. It would also ensure that the guidance was complementary to other regulatory requirements and would not preclude regulators developing specific regulatory approaches to individual technologies such as AI when required. The LSB has been engaging with the Office for AI on the development of its framework for regulation; a response to the recently issued white paper on the regulation of AI was in the process of being drafted. The following points were raised in discussion:

- The proposals around encouraging regulators to share case studies were positive. It would be useful to share both successful and unsuccessful stories, to encourage learning from different types of outcomes.
- Service innovation could improve consumer outcomes and increase access to services, and the drafting of the guidance should be clearer that it promotes the use of service innovation as well as technology.
- Outcome two should include the need to balance costs and opportunities in addition to the areas listed.

- Engagement with the Ministry of Justice had identified that the LSB's proposed approach was well aligned with its workstreams and focus on access to justice and lawtech.
12. The Board **agreed** the documents as the basis for consultation and **delegated** to the Chief Executive approval of final changes prior to publication.

Item 7 - Regulatory Performance Framework

13. The Regulatory Policy Manager introduced the item, and the following points were noted:
- As the 2023 assessment, which was due to start shortly, would be the first wholly under the LSB's new performance framework, LSB staff had engaged with regulators to help them prepare for it, particularly in relation to how regulators and their boards could provide assurance on how they met the new framework's standards.
 - The Board discussed how it could increase both its own engagement with regulators' boards about LSB initiatives, and collaboration amongst regulators, to improve their performance.
 - The Board noted the Legal Services Consumer Panel's report on consumer-focused regulation would be published shortly. The LSB would add this report to its regulatory performance framework sourcebook as a resource that regulators could use to improve their performance.
14. The Board **noted** the Regulatory Performance Update.

Item 8 - LSB Annual Report and Accounts (ARA) 2022/23

15. The Chair of ARAC introduced the Annual Report and Accounts 2022/23 and reported that ARAC had recommended them to the Board for approval. The following points were raised in discussion:
- The NAO/Deloitte findings had not identified any significant issues, however the audit approach continued to be disproportionate to the risk presented by the organisation and consumed significant LSB resources. The fees charged did not appear to present value for money.
 - Meeting attendance data by individual Board member would be checked.
16. The Board **agreed** the ARA and delegated authority to the Chair and Chief Executive to approve:
- the signing of the ARA by the Accounting Officer, followed by:
 - submission to the Comptroller and Auditor General for certification; and
 - submission to the Lord Chancellor for laying.

Item 9 - ARAC Update

17. The Chair of ARAC reported that Marta Phillips OBE CA had been appointed to the Committee as an independent advisor.
18. In addition to endorsing the Annual Report and Accounts, the meeting held on 31 May 2023 had considered an internal audit report on transparency (substantial assurance),

and a report on Freedom of Information requests for the year (with a follow up paper requested on the internal reviews).

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

Item 10 - Finance Report to 30 April 2023

20. The Board **noted** the finance report.

Item 11 - Minutes of previous meeting

21. The minutes were **agreed** as drafted.

Item 12 - Action tracker

22. The Board **agreed** the action tracker.

Item 13 - Papers circulated out committee since the last meeting

23. The Board **noted** the papers circulated out of committee.

Item 14 - Forward Look

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

Item 15 - AOB

25. There was no AOB discussed.

Item 16 - Wrap up and summary

26. It had a been a positive meeting with a Board speaker who had brought new perspectives sparking rich discussion. The dynamic of the meeting as a whole had been one of Board Members being able to contribute and build on previous discussions.