Minutes of the Legal Services Board (LSB) meeting held on 18 July 2023

Date:	18 July 2023	
Time:	10:30 – 11:00 (Board private session) 11:00 – 14:30 (Board meeting)	
Venue:	MS Teams	
Present: (Members)	Alan Kershaw, chairing the meeting Katherine Briscoe Catherine Brown Clare Brown Stephen Gowland Gary Kildare Habib Motani Flora Page Catharine Seddon Matthew Hill, Chief Executive	
In attendance:	Clare Brown	Regulatory Policy Manager (item 6)
	Robin Geddes	Regulatory Policy Manager (item 5)
	Tom May	Research Manager (item 5)
	Aisling O'Connell	Regulatory Policy Manager (item 7)
	Stuart Hamill	Head, Finance and IT
	Angela Latta	Head, Performance and Oversight
	Margie McCrone	Head, Strategy and Policy
	Richard Orpin	Director, Regulation and Policy
	Danielle Viall	General Counsel
	Holly Perry	Director, Enabling Services
	Paul Nezandonyi	Head, Communications and Engagement
	Ethan Fleming	Corporate Governance Manager (minutes)
Observing:	Natalie Donaldson, Communications Associate, Tomoko Langtry, Policy Associate, David West, Ministry of Justice	
Apologies:	None received	

Item 1 – Welcome | Apologies

1. There were no apologies to record.

2. David West (Ministry of Justice, Head of Arm's Length Bodies) would be observing the meeting. The Board indicated that it would be very grateful to welcome a Minister to a future meeting, noting that any Minister who attended would be the first to do so in the LSB's history. The Board invited David West to follow up on the invitation.

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

3. Catharine Seddon had been appointed to the Board of the Chartered Insurance Institute who in turn had appointed her as a director of the Personal Finance Society. Catharine had also been appointed to the Royal College of Veterinary Surgeons (RCVS).

Item 3 – CEO's Report

4. The CEO introduced the report, and the following points were raised in discussion:
   - The Solicitors Disciplinary Tribunal (SDT) annual performance report was being presented later than usual due to the expanded narrative and inclusion of strategic insights. Overall, the SDT was meeting its key performance indicators, with an increase in cost per court due to the fall in the number of sitting days. The SDT aimed to address this in their next budget. The number of adjournments could be indicative of poor case management. Although the outcome of the case was available at the conclusion of the hearing, it takes five weeks for a full judgement, which is a long time to wait for a judgement. The Board welcomed not only the positive improvements overall in SDT performance but the increased transparency and coherent narrative of the report.
   - A positive meeting had been held with the Office for Sanctions Implementation (OFSI) who had received additional resources and had a greater understanding of LSB's role and willingness to work together jointly.
   - The SRA research into exam outcomes indicated that there was a belief amongst BAME candidates that they would not be accepted in the profession. The regulators should do more to ensure that outreach work addressed this to remove preliminary barriers.
   - The 'Cab Rank Rule' had been discussed increasingly in the sector recently – the rule was contained in the BSB handbook. The LSB had previously produced a report on the rule in 2013. It was noted that there was a range of views about the effectiveness of the rule in its current form with its numerous exceptions (even to the extent of its being practically irrelevant to many barristers). The Board asked the executive to prepare a paper for a future meeting on this subject. (**action**)
   - The SRA was developing guidance for in-house lawyers following feedback from its thematic review. The LSB had expressed an interest in the work, and it would be important for the SRA to consider the views of in-house lawyer groups and other stakeholders.
   - The executive would consider inviting the Foreign, Commonwealth and Development Office (FCDO) to future roundtables on sanctions.
   - The Board would welcome a speaker related to the Post Office inquiry, specifically on the insights for regulation arising from the inquiry.
   - The proposed anti-money laundering reforms proposed (amongst other options) a single supervisor for legal services, which, if implemented, would most likely fall to the SRA. The LSB had a number of concerns in relation to the options and it was in discussion with HM Treasury.
   - The first meeting of the new lawtech consortium had been positive with good opportunities for engaging on how regulation can enable technology and innovation that benefits consumers moving forwards.

5. The Board **noted** the CEO's Report.

Item 4 – Board Appetite for Action on EDI

6. The Head, Performance and Oversight introduced the item and invited a Board discussion on the pace and approach to future work. The LSB had made considerable progress in the past 12 to 18 months and were building on some positive action. The following points were raised in discussion:
    - It was important for interventions to take account of the broad context of the sector and the wider impacts the interventions may have. Different interventions may be required at different levels (high street/magic circle) or different areas (criminal law/finance).
    - The time was right to consider a more radical and innovative approach balanced against what was reasonably possible and likely to gain broad support from across the legal sector. It was noted that there would inevitably be some level of resistance to change the pace and also the way that the LSB effected change.
    - Collaboration would be important to drive change and the LSB had been actively working with a number of groups to help bring focus to EDI activities however there were limits to what the LSB could achieve without disruptive interventions to speed up progress. Where there were examples of good practice, more should be done to encourage others to learn from these and to work together to drive change.
    - It was clear that the issues stopping progress on greater inclusivity were systematic, whereas largely the focus of interventions targeted individuals. The LSB should consider EDI within thinking on Environmental, Social and Governance (ESG) and improving access to justice.
    - A level of friction may be necessary to bring change. The LSB should be clear on its agenda and focus on the specific areas where it could have greatest impact and focus attention on increased accountability of the LSB, regulators and others delivering improvements.
    - The LSB should primarily focus on regulatory interventions where the LSB has greatest leverage, and its approach should clearly be consistent with the strategy for the sector.
    - Evaluation was critical to ensure the choice of interventions were focused on impact. The ‘theory of change’ model would be applied to the LSB’s own work in this area and would inform the changes proposed. The LSB would continue to encourage the regulators to use this evaluation method.
    - The continuing evolution approach adopted to date was positive and was delivering change, however the Board had expressed an appetite for the LSB to adopt an approach that would bring a step-change. The executive would draft a paper for a future meeting to include worked examples of the range of interventions at different levels of appetite tolerance and their potential impacts and risks. (**action**)

7. The Board **noted** its appetite for action on EDI.

Item 5 – Financial Protection Arrangement for Consumers

8. The Regulatory Policy Manager and Research Manager introduced the item and gave a presentation on the project. The work had been commissioned in response to concerns from law firms about increasing insurance costs and drivers for insurance premiums. The following points were raised in discussion:
    - The inclusion of a paper setting out insight and options for financial protection arrangements in the Regulatory Performance Assessment Framework Sourcebook

would ensure that the regulators were reminded of it on a regular basis and routinely took the evidence into account.

- The LSB and regulators could have limited impact on the insurance market itself, however the LSB would continue to engage the regulators on alternative policy approaches such as mutual funds. Exploring different mechanisms could have the effect of increasing competition by removing barriers to entry which may also increase the diversity of the legal providers and the profession. Other mechanisms worth the regulators exploring may include making it easier for firms to undertake property work without holding clients' funds. Overall, the findings of the research reflect that a one size fits all approach does not appear appropriate.
- The work did not indicate one way or the other whether increased premiums were driving up costs to consumers – these may be driven by different factors.
- The increase in costs could be a market correction after several years of under payments.
- It was disappointing that the insurance market did not appear to recognise the high level of training and supervision within law firms or give recognition to firms with no claims.

9. The Board **agreed** to:
   - Publish the report and engage with the legal services regulators and stakeholders in the insurance sector to raise awareness of the issues identified.
   - Engage the Competition and Markets Authority (CMA), Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA), to inform their approach to potential regulatory action in the insurance market.
   - Set out insights and options to inform legal services regulators' approaches to financial protection arrangements.

Item 6 - Consumer Redress

10. The Regulatory Policy Manager introduced the item, and the following points were raised in discussion:
    - The overarching policy aim was to create the best redress system for legal services users, by making it easy for consumers to give feedback and make complaints, which should raise standards and build public confidence in the sector.
    - There was a need undertake more proactive surveying of the customer experience and to speak to third parties. Making success rates more transparent and showing improvements in them would also help to build trust in the system.
    - Regulators should be required to address those firms that were persistently failing to comply with the requirements and ensure that firms were learning from complaints to raise standards. Where this did not occur, the regulators should be encouraged to apply sanctions.
    - The Legal Ombudsman had provided feedback and were generally supportive of the work. The Legal Ombudsman scheme rules would be taken account of.
    - It would be important to emphasise the commercial benefits of improving first tier complaints handling.
    - The impacts on sole/small practitioners should be considered and to be mindful of impacts on their resources.
    - The references to 'silent sufferers' should be strengthened throughout the documentation.

- The proposals should help those who struggled to complain or found it hard to structure their complaint. It would also be good to introduce an element of standardisation into the information provided to consumers about complaining, which was likely to be helpful for the Legal Ombudsman's investigations.

11. The Board **agreed** the documents presented as the basis for consultation **delegated authority** to the CEO for approval of final changes prior to publication, subject to a final review by the Board if required.

Item 7 - Regulatory Information Service

12. The Regulatory Policy Manager introduced the item and reported that engagement with regulators on the work carried out by PA Consulting to identify options for a single digital register had been positive. They also noted the BSB had expressed a desire to rejoin Legal Choices.

13. The Board **agreed** the proposal for the Chair to write to regulatory bodies to gain agreement on how the work should progress.

Item 8 – Corporate Risk Register and Risk management Strategy

14. The Corporate Governance Manager introduced the item, and the following points were raised in discussion:
    - ARAC reviewed the risk register three times a year and had recommended the risk management strategy and risk appetites to the Board.
    - Risk 12a, LSB Board diversity - this risk would be adjusted to reflect that this was not just a credibility issue but related to the need for the Board's work to be informed by diverse perspectives and that a diverse Board would make better decisions.

15. The Board **noted** the Corporate Risk Register and **agreed** the risk management strategy and risk appetites.

Item 9 – Minutes of the previous meeting

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

Item 10 – Legal Services Consumer Panel Annual Report 2022/23

17. The report might helpfully reference how the role of the LSCP was different to that of the public panel and this point would be fed back to the Panel Secretariat (**action complete**).

18. The Board **noted** the LSCP annual report.

Item 11 - Finance Report to the 30 June 2023.

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

Item 12 - Board action tracker

20. The Board **noted** the Action Tracker.

Item 13 - Papers circulated out of committee

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

Item 14 - Forward Look

The Board **noted** the forward look.

Item 15 – AOB

There was no AOB discussed.

Item 16 - Reflections

22. It had been a good meeting with insightful comments and discussion.