**Minutes of the Legal Services Board (LSB) meeting held on 11 June 2024**

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| **Date:** | 11 June 2024 | |
| **Time:** | 10:30 -13.00 (Board private session)<br>13:30 –14:30 (Board meeting) | |
| **Venue:** | LSB Offices | |
| **Present:**<br>**(Members)** | Alan Kershaw, Chairing the meeting | |
| | Kate Briscoe | |
| | Catherine Brown | |
| | Clare Brown | |
| | Habib Motani | |
| | Christine Nwaokolo | |
| | Flora Page | |
| | Lizzie Peers | |
| | Meena Sanker | Board Apprentice |
| **In Attendance:** | Vibeke Bjornfors | Regulatory Policy Manager (item 5) |
| | Stuart Hamill | Head, Finance and IT |
| | Tomoko Langtry | Regulatory Policy Manager (item 4) |
| | Angela Latta | Head, Performance and Oversight |
| | Jelena Lentzos | Head, Policy and Delivery |
| | Samuel Omolade | Head, Strategy and Research |
| | Toakase Tonga | Senior Legal Adviser (item 4) |
| | Richard Orpin | Interim CEO |
| | Danielle Viall | Interim CEO (Regulatory Operations) |
| | Holly Perry | Director, Enabling Services (minutes) |
| | Paul Nezandonyi | Head, Communications and Engagement |
| | Donella Williams | Corporate Projects Manager (item 6) |
| **Observing:** | Craig Westwood | CEO designate |
| **Apologies:** | Gary Kildare | |

**Item 1 - Welcome and Apologies**

1. The Chair welcomed Christine Nwaokolo to her first Board meeting following her appointment on 1 May 2024, and also Craig Westwood, the CEO designate, who would be joining the LSB on 19 August 2024. Apologies had been received from Gary Kildare.

2. The Board had held a private meeting ahead of the main Board, where matters discussed had included the performance of the Bar Standards Board (BSB), the current status of the regulatory reviews of the Solicitors Regulation Authority (SRA) and consideration of the implications of the General Election for legal services.

**Item 2 – Declarations of Interest Relevant to the Business of the Board**

3. There were no declarations to record.

**Item 3 – Chief Executive's progress report**

4. The Interim CEO introduced the item, and the following points were raised in discussion:

- A recent statutory decision was noted to approve an application to alter regulatory arrangements from the BSB to widen its powers and those of the Disciplinary Tribunal to impose interim measures (including, for example, suspending a barrister) in specified circumstances, to address gaps in its ability to protect the public. The gaps were identified by the Disciplinary Tribunal in a recent case. The LSB had been satisfied that there were broader public interest merits to the proposed changes.
- While the Litigation Funding Agreements (Enforceability) Bill had not progressed through Parliamentary wash-up prior to dissolution for the General Election, there was cross-party support for it and therefore the Bill was expected to return post-election.
- The executive provided further background in relation to the recent correspondence with regulatory bodies about the timing of the LSB's next performance assessment, which would begin in September, and the need for regulators to provide sufficient transparency about their decision-making processes. There remained significant shortcomings in some regulators' approach to transparency, including redactions and withholding of information on key performance indicators.
- [redacted] [**FoIA exempt Section 42]**
- The Office for Legal Complaints' (OLC) latest voluntary assurance letter included a greater focus on performance metrics with an accompanying narrative and data set out in a 'Balanced Scorecard'. The Board noted that the assurance did not align with the LSB's current perception of the risk (the LSB's corporate risk register includes a risk on the implications of performance shortcomings at the Legal Ombudsman having an impact on public confidence in the redress system). The feedback would be discussed further with the OLC at the forthcoming Board to Board meeting in July.
- The equality, diversity and inclusion (EDI) implications of the OLC's scheme rules changes, 12 months after implementation, were considered. There were a number of EDI impacts, and the Board queried how thorough the OLC had challenged themselves on their data collection and monitoring methodology. A query was also raised about the destination of cases which were regarded as 'too complex'. The executive would provide the Board with full briefing and advice on the scheme rules review in due course, and ahead of the Board-to-Board meeting (**action**).
- Concern was raised for the 1.8m claimants participating in the class action lawsuit against car manufacturers who had been told by law firm Pogust Goodhead that its fees would be increasing from 35% to 50% of their settlements owing to a 'typographical error'. The LSB had recently received an application from SRA regarding fee capping of claims management companies (CMCs), which was expected to close the loophole. SRA's current rules were more lenient that those that applied in the financial services sector.

5. The Board **noted** the Chief Executive's progress report.

**Item 4 – Disciplinary and Enforcement (D&E) processes**

6. The Head, Performance and Oversight presented the paper, which updated the Board on progress with the work to review regulators' disciplinary arrangements. The project was expected to complete by the end of the current business planning year, with either

guidance or a policy statement to be developed. The following points were raised in discussion:

- ‘Fearlessly focusing on the public interest’ was fundamental in discipline and enforcement and central to expectations of regulators in carrying out this work - consideration would be given as to how best to reflect this in the principles. This would be key in enforcing big cases involving professionals providing legal services. Using the right language to instil integrity and purpose would be important.
- A closer link between the principles and intended outcomes was suggested.
- The principles should reflect more fully the importance of the educational value that can result from disciplinary action, using regulation as a driver for improvement and consistency.
- It was agreed that consistency across regulators where they were taking similar decisions at panels was important, and any role that the LSB could play to encourage this would be key to raising standards and also realising efficiency savings and economies of scale.
- There was a strong link between the LSB’s work in this area, and the work on professional ethics and the rule of law (PERL); holding the profession to high ethical standards, and then being able to take swift and decisive action where lines were crossed. Both D&E and PERL would return to Board in October for decision points.
- The Solicitors Disciplinary Tribunal’s (SDT) vision was to further professionalise, and the Bar Tribunal and Adjudication Service (BTAS) was under scrutiny following the recent Fieldfisher review where shortcomings had been identified.

7. The Board **noted** the progress of the project and the preliminary draft working principles.

**Item 5 – Evaluation of Practising Fee Rules and Guidance**

8. The Regulatory Policy Manager, Statutory Decisions lead, presented the paper, which set out an evaluation of applications made from 2021/22 to 2023/24 by regulators to the LSB for approval of practising fees, after the Application to Alter Regulatory Arrangements Rules 2021 (2021 Rules) and accompanying statutory guidance came into effect, replacing rules and guidance that had largely remained unchanged since the LSB was established. The following points were noted:

- Eight applications were received annually. Due to the small sample size over the three years under review under the 2021 Rules and guidance, the results were susceptible to variables that each regulator, and the sector, may face from year to year. Therefore, it was not possible to draw conclusive findings.
- The 2021 Rules provided a clear framework for the LSB to scrutinise applications and to secure information from the regulators and some broad themes had emerged. The framework had resulted in a marked improvement in the quality of applications allowing for greater scrutiny, and increased transparency in the setting of the practising fee and spend on regulatory activities, including in relation to the financial resilience of the regulatory bodies, which was welcomed.

9. The Board **noted** the findings of the evaluation exercise and the proposed next steps.

**Item 6 – Legal Services Board Annual Report and Accounts (ARA) 2023/24**

10. The Corporate Projects Manager presented the draft ARA, which had been circulated separately to Board on 6 June, following consideration by ARAC on 3 June.

11. Following the announcement of the General Election and the dissolution of Parliament, the ARA timetable had been updated: the Accounting Officer was now expected to sign the accounts on 8 July, the Comptroller and Auditor General was expected to certify the accounts on 11 July, and the ARA was expected to be laid before Parliament and published on 19 July. The LSB would be laying the ARA electronically, as in previous years.

12. The Board **delegated** authority to the Chair and Interim Chief Executive to approve:
    - the signing of the ARA by the interim Accounting Officer;
    - submission to the Comptroller and Auditor General for certification; and
    - submission to the Lord Chancellor for laying.

**Item 7 – Audit and Risk Assurance Committee (ARAC) Update – 3 June 2024 meeting**

13. The Chair of ARAC introduced the item, and the Board noted that the full minutes would be circulated to the Board in due course. The following points were raised:
    - The external audit this year had been a very positive experience relative to previous years, resulting in an unqualified audit report with no audit adjustments or material misstatements.
    - An internal audit rating of 'full assurance' had been awarded for the first time, in respect of the audit on the LSB's adherence to its statutory remit. ARAC had also agreed the internal audit for 2024/25.
    - Deep dive papers had been considered on cyber security, which had demonstrated that the LSB's position was robust, and on regulators' capability and capacity, on which the full Board would be engaged shortly.
    - A closed session had been held with the external auditors, and no issues had been raised.

14. The 3 June meeting had been Catherine Brown's last ARAC meeting as Chair, and the Board thanked Catherine for her time on the Committee, both as a member and in the role of Chair. Lizzie Peers had now assumed the role of ARAC Chair.

15. The Board **noted** the update.

**Item 8 – Minutes of previous meeting – 30 April 2024**

16. The Board **agreed** the minutes of the previous meeting as drafted.

**Item 9 – Finance Report to 30 April 2024**

17. The Board noted the finance report. The Head, Finance and IT provided an update on costs related to the Axiom Ince investigation. In April 2024, the Senior Leadership Team (SLT) had approved a budget extension of £18k for the work to take the overall budget for the review to £98k. This budget had now been fully utilised. Costs to complete the work on Axiom Ince were being discussed with Carson McDowell. In addition, once the initial cost forecast for the SSB element of the review was available, this would be reviewed by SLT and included in the Q1 Forecast in July.

**Item 10 – Board action tracker**

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

**Item 11 – Papers circulated out of committee since the last meeting**

19. The Board **noted** Paper (24) 26 – Quarter 3 performance report.

**Item 12 – Forward look**

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

**Item 13 – Any other business and reflections**

21. It was agreed that the meeting had been positive and productive. The Board thanked the executive for their continued efforts during the period between chief executives, recognising that the pace and quality of work remained undiminished. The Board continued to offer its full support to the staff team during what was a challenging external environment currently.