

LEGAL SERVICES COMMISSION BOARD

MINUTES OF THE MEETING HELD ON 24 NOVEMBER 2010

[Note: These minutes are subject to be reviewed and the information that is exempt from disclosure under the Freedom of Information Act will be deleted and replaced by an explanation of the exemption that applies.]

Present: Sir Bill Callaghan, Chair
Barry Elliott
Tom Jones OBE
Julian Lee
Beryl Seaman CBE
Dr David Wolfe
Carolyn Downs, Chief Executive
Andrew Emmett, Finance Director

Apologies: Professor Carolyn Hamilton

Attendees: Hugh Barrett, Executive Director for Commissioning
Hazel Parker-Brown, Executive Director for Corporate Services
Helen Riley, Director of Case Management
Ruth Wayte, Director of Legal, Commissioning and Operational Policy
Holly Perry, Head of CEO's Office and Governance
Cate Jolley, Corporate Governance Policy Manager
Hannah Stephenson, Corporate Governance Officer (minutes)

For particular items: LSC10/84 Kenneth Clarke, QC MP, Lord Chancellor and Secretary of State for Justice
Jonathan Djanogly, MP, Legal Aid Minister
Sharon White, Director General for Law, Rights and International, Ministry of Justice



LSC10/88 Jim Shearer, Independent Chair of Pension Trustees
Charles Young, Pension Scheme Actuary, Hymans Robertson

Announcements: The Chair welcomed Owen Mapley, who would take up post as the LSC Finance Director on 1 December.

* * *

The minutes of the meeting held on 20 October were approved, subject to the following amendments:

LSC10/78 To the sentence, 'Any re-tender for new contracts would take at least a year', would be added the line, '*if substantively different*'.

LSC10/79 The bullet point, 'The Board was informed that e-forms had been suspended', would be amended to, 'The Board was informed that *the rollout of* e-forms had been suspended'.

* * *

Matters Arising

There were no matters arising.


* * *

Agenda

LSC10/84 Legal Aid Review consultation

[Freedom of Information Act 2000 Exemption: s36 – the free and frank exchange of views for the purpose of deliberations]

David Wolfe declared a conflict of interest. In his role as a barrister, he would be directly affected by the proposed rate cuts. In his role as patron of the Advisory Centre for Education and honorary legal adviser to the Independent Parental Special Educational Advice, he would be indirectly affected by the proposals relating to education law.

The Chair welcomed to the meeting the Secretary of State, Legal Aid Minister, Director General for Law, Rights and International, Ministry of Justice, and other MoJ officials. An informal discussion took place 



The Commission would agree the Commissioners' formal response to the Legal Aid Reform consultation at the January Board meeting. Hugh Barrett would draft the response following guidance from the Chair **(BC/HB)**.

Agenda item LSC11/03 refers.

LSC10/85 Commission feedback session

The Commission noted the actions from Audit Committee held on 5 November. In addition, Barry Elliott as the Chair of the Audit Committee provided an update on the Committee's discussion of the NAO management letter and the draft report by the Comptroller and Auditor General (C&AG). Although it was felt that the letter did not provide sufficient explanation of the LSC's current operating context, the Committee felt the report to be as good as was possible in the circumstances.

The Commission noted the updates and the updated Commission Board Terms of Reference.

The Commission approved the invoice from HMCS.

LSC10/86A Finance update – Sign off annual accounts 2009/10

[Freedom of Information Act 2000 Exemption: s36 – the free and frank exchange of views for the purpose of deliberations]

Three post-balance sheet events had been identified and would be incorporated into the final version of the accounts. These were the tender exercises (including the Law Society judicial review), the potential for the Consumer Price Index (CPI) being applied to the LSC pension schemes, and the impact of the Legal Aid reforms.

To provide greater clarification on the final accounts process for 2009/10, the Finance Director tabled a note on reconciliation of the Fund accounts, which had been requested by the Audit Committee. The note provided a breakdown of the movements leading to the final accounts being slightly outside of forecast. It was noted that the level of adjustments required in 2009/10 (on work-in-progress and debtors) would not normally be expected, but that the process was now significantly improved.



The Commission approved the documents forming the Annual Report and Accounts for 2009/10. In addition the Chair expressed his thanks to all staff involved in the Annual Report and Accounts process.

LSC10/86B Finance update – Management accounts

[Freedom of Information Act 2000 Exemption: s36 – the free and frank exchange of views for the purpose of deliberations]

Within the Fund report the Finance Director drew attention to three significant areas which might impact on the budget: Civil Representation, Legal Help, and Crime Lower. In addition it was noted that although expected income from Crown Court Means Testing had not yet been recognised, the team was confident that the income would be received. The Fund had a small overspend but it was in line with forecast.

The Finance Director had received an assurance from MoJ that the LSC's forecast, rather than budget figures, would be used for allocating the 2011/12 budget. Cash management funds would also be available, although the Finance team was working on the assumption that this would not be needed this year. The Finance Director had requested MoJ's assurance in writing, but was confident of MoJ's assistance.

Post-meeting update: Funding was confirmed at the Value for Money Improvement Committee meeting held on 21 December. It was noted that MoJ have a three day issue but that LSC required the funding physically transferred.



The Administration budget included the expectation that the LSC would fund £4.6m in voluntary redundancy costs. 260 redundancy calculations had been processed so far and 211 expressions of interest received. The next step was for departments to consider if and where staff could be released.



The Finance Director clarified that although CPI did not yet apply to the LSC's private sector pension scheme, it was likely to apply in the future given the move to executive agency status, which might cancel out the deficit. A firmer figure of the number of expressions of interest received and voluntary redundancies expected to be funded would be provided at the January Board meeting **(SC/OM)**.

An update on voluntary redundancy is included in the HR update at the January Board meeting - agenda item LSC11/10 refers.



The Commission noted the management accounts.

LSC10/86C Finance update – Financial stewardship

The Finance Director presented an update on financial stewardship, drawing particular attention to the significant increase in the number of contract notices and contract terminations issued, mostly as a result of firms acting in categories of law in which they were not contracted to act.

The Executive Director for Corporate Services provided an additional update on the Integrated Delivery Programme. The Project Board would be meeting on 2 December with proposals for decision to be considered by the Executive Team later in December. The team would be in a position to report on the outcomes of the review at the January Board meeting **(HPB/DN)**.

Agenda item LSC11/09 refers.

The Finance Director explained that the figure given for recovery of overpayments differed depending on whether or not costs recovered through adjusting Standard Monthly Payments were included, which would result in a higher figure. The Finance team was looking at how this recovery process could be accelerated.

Of the stewardship plan actions, 22 were completed, four were in progress, and one would not be taken forward (at least until after the Legal Aid reforms). The Chair formally recorded the Commission's thanks for this achievement.

The interim Finance Director, attending his last Board meeting, was thanked for his contribution to the LSC.

The Commission noted the update.

LSC10/87 Organisational structures

The Chief Executive provided an oral update on the draft organisational structures for the executive agency transition. The drafts models had been shared with the Senior Management Team and comments were still being received and incorporated.

In addition to the details provided in the draft operating models, the Board received updates on the following:

- The timescale and the proposed overall reduction in senior staff by 50% matched the restructure at Senior Civil Service level currently being undertaken by the MoJ
- The intention was to move initially from three to two National Relationship Directors, reducing to one in the longer term, and move from the large/medium/small division of work to one based on geographical areas
- The LSC's Internal Audit function would be outsourced, possibly under a two year contract with the ability to terminate, which was expected to have minimal HR impact.

The Chief Executive was asked to outline the risks associated with the proposed structural changes. In particular concern was expressed over reducing management levels at the same time as significant changes and increased workloads were expected as a result of the Legal Aid reforms. The Chief Executive felt that the proposed structure for April 2011 was adequate, with the possible exceptions, at least in the short term, of capacity within the Legal team and having the right skills within Finance. The strengths of the LSC's HR function in dealing with the process were emphasised. However the proposed structure at vesting day and beyond was of greater concern, and although there would be a limited impact on structure as a result of changes to scope, the Chief Executive was keen for both the LSC and MoJ to be proactive about simplification.

The Commission was informed that staff morale and senior acceptance of the proposed structural changes was higher than might be expected. However there was awareness of the potentially adverse impact on morale once the effects were felt personally, and of the need to work to the proposed timetable and provide certainty for staff. In particular the voluntary redundancy process would need to be handled carefully, to avoid weakening motivation amongst those whose applications the Commission was unable to accept. The Chief Executive clarified that although some terms and conditions, such as pay bands, would be less favourable once LSC staff became civil servants, other benefits would be noticeably improved, especially for newer members of staff.

The Board agreed the draft high level transition model to be implemented by 1 April 2011, and noted the draft models for 1 April 2012 and by end of 2012/13.

LSC10/88 Pension scheme update, including valuation

Jim Shearer, Independent Chair of Trustees, and Charles Young, Pension Scheme Actuary, joined the meeting to present to Commissioners an update on the pension scheme. The update included:

- The intention of the pension scheme Trustees to continue to be as positive and cooperative as possible over the transfer of the pension schemes, but in

recognition of their independent role, they would need to seek independent legal and financial advice

- The need for the Trustees to be informed as early and clearly as possible about the intentions of the LSC and MoJ during the move towards executive agency status
- The volatile nature of the funding situation in the current economic climate
- The financial risks to the LSC if government intentions changed and a buyout of the pension schemes was needed
- The potential for instability following the next round of Trustee nominations, which was likely to see a loss of Trustees with knowledge of the history of the LSC and its pension schemes at a time when complex decisions needed to be made.

The Chief Executive and Finance Director provided an assurance that the LSC was in discussion with MoJ over contributions to the pension scheme this year, and MoJ had confirmed that they were content to sign the Memorandum of Understanding. The final version of the Memorandum of Understanding would be circulated outside of the meeting for sign off by the Chief Executive and MoJ **(AE/JS)**.

Action completed.

The Chair and Chief Executive were given delegated authority to sign off the revised Trust Deed **(BC/CD)**.

The revised Trust Deed was signed off by the Chair and Chief Executive on 24 November.

The Commission noted the update.

LSC10/89 Update on VHCCs – Q1 and Q2 2010/11

The Commission noted the updates.

LSC10/90 Half-yearly update on Parliamentary Questions, Freedom of Information and Data Protection Act requests

The Commission noted the update and risks outlined.

Next meeting

The next Commission meeting would take place on 26 January 2011.