

LEGAL SERVICES COMMISSION

MINUTES OF THE MEETING HELD ON 31 MARCH 2010

[Note: These minutes have been reviewed and information that is exempt from disclosure under the Freedom of Information Act has been deleted and replaced by an explanation of the exemption that applies.]

Present: Sir Bill Callaghan (Chair), Angus Andrew, Barry Elliott, Tina Fahm, Tom Jones OBE, Lionel Joyce OBE, Julian Lee, Beryl Seaman CBE, Peter Smith, Dr David Wolfe

Apologies: Professor Carolyn Hamilton, Jane Hickman

Attendees: Carolyn Downs, Chief Executive
Hugh Barrett, Executive Director for Commissioning
Phil Lambert, Executive Director for Business Support
Hazel Parker-Brown, Executive Director for Corporate Services
Ruth Wayte, Legal and Governance Director
Andrew Emmett, Director of Finance
[Freedom of Information Act 2000 Exemption: section 40 (2) (a) Personal data]
██████████, Corporate Governance Officer (minutes)

For particular items: LSC10/19-22 ██████████, Corporate Governance Policy Manager
LSC10/22 Derek Hill, Director of Policy

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The minutes of the meeting held on 27 January were approved, subject to the following actions and updates:

Board papers should be distributed on time and in full, in order to allow Commissioners adequate time to consider their content **(ET/NC)**.

LSC10/12 Finance update

A response to the Chair's letter to the Legal Aid Minister on funding issues had been chased and a meeting had taken place.

LSC10/16 Commission feedback session

Although it was noted that there would not be an away day in Wales as originally planned, an open meeting should be considered again once the future of the organisation was clearer **(All)**.

Wales will be considered at an appropriate time in future.

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Agenda

LSC10/18 Authorisation for payment of Her Majesty's Courts Service (HMCS) – service charges

The Commission had approved the invoice out of committee in order for the payment to be made before year-end.

LSC10/19 Magee review of legal aid delivery and governance – next steps

The Chief Executive outlined the key points in the paper and reminded the board that the recommendations made in the review were to be discussed and would not automatically be taken forward. A business case needed to be pulled together at this stage but little else, including significant resource, could be committed until the second reading of a Bill.

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

[Redacted text block]

- Monthly updates on progress would be provided as a matter of course, with a more detailed review to take place after six months.

A Magee review progress update is on the agenda for 29 April at LSC10/32.



Subject to the actions agreed the Commission noted the paper.

LSC10/20 Business planning – prioritisation of projects

Owing to the publication of the Magee review and the recommendation to change the LSC's status, there had been an inevitable impact on the development of the Business Plan. As a result, the board received an update on progress and priorities rather than a final draft of the Plan.

The board considered a priorities matrix, outlining certain projects that had not yet proceeded so far that they could not be stopped. The board felt that the design and purpose of the matrix was confusing and needed clarifying. In addition, the following actions were agreed **(HPB/MR)**:

- The wording in the last column relating to the Quality Assurance for Advocates project would be revised to make the position clearer
- When considering the future of projects further, consideration should be given to available feedback from providers on some issues, such as e-forms, that had been gathered via the Provider Reference Groups.

The actions were fed back to the executive.

It was unlikely that the Business Plan would be finalised and signed off by Ministers before the General Election was called. There would be further discussion of the Plan at the April away day, either in full if it was in a position to be circulated before then, or as an update related to prioritisation **(HPB/MR)**

Business planning is on the agenda for 29 April at LSC10/31.

The Commission noted the update.

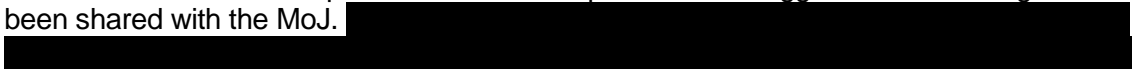
LSC10/21 Financial position, including budget for 2010/11

The board was updated on financial leadership, forecast results for the administration and Fund accounts for 2009/10 and the budget allocation for administration and Fund for the next financial year.

The Chair had agreed the pension pre-payment of £10.4m on the board's behalf out of committee, owing to tight timescales.

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

As Accounting Officer, the Chief Executive had written to the Permanent Secretary in relation to the Fund overspend and near-cash position and suggestions for savings had been shared with the MoJ.



[REDACTED]

In terms of the robustness of figures, the board was advised that the LSC would be in a better reporting position at the end of the new financial year. In the meantime, monthly reports would continue to be provided and would regularly include updates on progress governance-wise that related to financial management issues, such as on the work being carried out by Ernst & Young **(HPB/AE)**. In addition, business control issues, such as, for example, knowing where liability had occurred in criminal cases earlier than when a bill is submitted, would be brought to the board in April **(HPB/AE)**.

An update on stewardship is on the agenda for 29 April at LSC10/29.

Interim reports on the annual accounts would be provided in the format in which they would be submitted in the future **(HPB/AE)**.

In hand. A finance update is on the agenda for 29 April at LSC10/28.

Subject to the actions outlined above, the Commission noted the update and would be kept updated on all issues and developments.

LSC10/22

Commission feedback session, including revised Finance Committee and Commission terms of reference

The action list at Annex A needed to be updated, particularly in light of the Magee review. The list would be amended ahead of the next meeting **(ET/NC)**.

An updated action log is at Annex A under the April Commission feedback session at LSC10/34.

The final joint consultation response on Very High Cost (Crime) cases and the Advocates' Graduated Fee Scheme was due to go to Ministers on Saturday 3 April to allow for publication early on Tuesday 6 April. Delegated authority had previously been granted to the Chair and Chief Executive at the February board meeting (LSC10/17 refers) but due to the timing of the response needing to be signed off it was now necessary to delegate authority elsewhere. The Executive Director for Commissioning and Commissioner David Wolfe would therefore approve the response, contacting the Chair if there was anything concerning or unexpected in the final draft **(DW/HB)**. In advance of this the most recent draft would be sent to David Wolfe **(DH)**. The Chair expressed his thanks to those working on this over the Easter weekend. Thanks were also expressed by the board to Derek Hill, who was due to retire in April.

Completed. The response was published on 6 April.

The board agreed the revised terms of reference for the Commission and Finance Committee, with a further discussion on the work of committees to take place at the April away day.

A new committee needed to be set up to replace the Multi-Party Actions Committee and the Public Interest Advisory Panel. The Commission agreed that Commissioners Angus Andrew, Lionel Joyce and David Wolfe would receive delegated authority to deal with any immediate issues relating to the new Special Controls Review Panel, which needed to come into force as of 1 April, with further discussion of the new panel's role to take place at the April away day **(AA/LJ/DW)**.

The work of the committees will be discussed at the non-executives only session at the away day on 28 April at LSC10/24.

Subject to the actions and recommendations agreed, the Commission noted the updates.

LSC10/23 Key metrics

The board received its regular update on the key developments within each of the directorates.

The Executive Director for Business Support responded to some issues that had been raised by Commissioners out of committee in relation to the HMCS Service Level Agreement (SLA) payment (LSC10/18 refers). It was accepted that payments should be agreed at the time of the SLA rather than at the time of the payment being due and this would happen in the future. The Commission agreed that an additional payment of £2.4m relating to the transfer of grant service charge for quarter 4 would also be required. It was hoped that there would be some proposed costings for the 2010/11 SLA by May and that these could be discussed with the board at that time. Further discussions regarding the quality of service provided by the HMCS would be taking place between the LSC and HMCS' Chief Executive, and would include clarification of the way forward. An update would then be provided to the Commission (**CD/PL**). The Framework Agreement should in future contain clarification on where the arbitration responsibility should lie in situations between two sponsored bodies such as this (**RW/CJ**).

In hand. The latest iteration of the Framework Agreement is on the agenda for 29 April at LSC10/33.

The following actions were agreed:

- The LSC had audited 460 Legal Help files that were then to be checked by the National Audit Office (NAO). It was hoped that the NAO would agree with the LSC's assessment of the files in order to build greater trust in the LSC's own assurance processes ahead of the main audit. The aim was to then audit 150 per month. Clarification would be provided on how many files the LSC could realistically check and on what acceptable error rates would be (**PL**)
- The board raised concerns over the LSC's management of fraudulent claims and misclaims and questioned whether it was tough enough. Specific areas to be looked at included issuing contract notices more quickly, speeding up the appeals process and generally being more robust, ensuring that this was effectively communicated to the profession (**CD/HB/PL**). Case studies outlining what the LSC was doing in relation to fraudulent activity and misclaims would be provided (**HB**)
- The board requested that consideration should be given to the way in which some of the corporate metrics information was presented to ensure the right interpretation and avoid the wrong message being communicated (**HPB**).

Stewardship and NAO issues are on the 29 April agenda at LSC10/29-30. A brief update on key issues from each directorate is also on the agenda at LSC10/30 and LSC10/35.

The Commission noted the updates.

Any other business

Next meeting

The next Commission meeting would take place on 28/29 April 2010.