



MINUTES FINAL

16th Meeting of Legal Services Regulatory Authority – Minutes (FINAL)

Location: LSRA
Date: 4 April 2019
Time: 16:30 to 18:15

Attendees

Authority Members	Executive & Secretariat	Others
Eileen Barrington	Brian Doherty (CEO)	Vincent Teo (CrowleysDFK) – LSRA Accountants
Angela Black	Ultan Ryan (Secretary)	
Geraldine Clarke		
Joan Crawford		
Stephen Fitzpatrick		
Dermott Jewell		
James MacGuill		
Deirdre McHugh		
Sara Moorhead		
Don Thornhill (Chairperson)		
Gerry Whyte		

Apologies:
N/A

Section 1 – Administration

Item 1.0 General

- 1.1 Agenda adopted.
Under AOB, the CEO informed the Authority that the new Chairperson of the Solicitors Regulatory Authority (UK) will be coming to Ireland shortly and wishes to meet with some Authority Members as part of the visit. CEO and Chairperson will liaise on how to facilitate the visit.

- 1.2 Declaration of Interests on agenda items. None arising.
- 1.3 Minutes of Authority meeting of 21 February 2019 approved, subject to correction under Item 7.0 - PII (see Actions below).

Section 2 – Governance

2.0 CEO Report

2.0.1 Members discussed the following items under the CEO Report:

Part 1:

- Update on Action Points from previous Meeting. Key actions addressed as Agenda items for this meeting.
- Revised Code of Conduct for Authority Members has been signed by all members.
- Code of Practice for Practising Barristers uploaded to Document Library on Minutepad along with final drafts of LP, LLP and PII Regulations.
- The Authority noted that the commencements scheduled to allow the new business models are ready but wait in line behind the priority Brexit-related items in the Government's broader schedule of commencements.
- Code of Practice for Practising Barristers and the LP, LLP and PII Regulations are approved by the Authority, in anticipation of the relevant statutory provisions being commenced.
- Executive met with Department of Justice & Equality (DJE) on 2 April 2019. As previously agreed with DJE, a technical working group will now be established to examine the existing levy model in the 2015 Act and to identify what the LSRA requires for a workable and sustainable long-term funding model.
- At that meeting with DJE, the next steps required to comply with Section 95 of the Act, including approved expenses and the consent of the Minister under Section 95(2) were agreed. On this basis, LSRA Executive is proceeding with implementation of the Levy in 2019 in respect of 2018 costs:
 - (a) Draft Financial Statements issued to DJE and Office of the Comptroller & Auditor General (OCAG) on 29 March 2019;
 - (b) Letter seeking approval of form and manner of Financial Statements issued to DJE on 29 March 2019;

- (c) Once form and manner approved, LSRA will write to DJE seeking consent to proceed with determination of the approved expenses of the Authority;
- (d) Processes undertaken to determine approved expenses to be independently audited;
- (e) Levy notices to be issued to:
 - Law Society
 - Bar of Ireland
 - Non-Law Library Barristers (who are subject to Levy).

Part 2:

Update on other activities undertaken:

2.1 Recruitment and Staffing:

- i. Workforce Plan submitted to Department of Public Expenditure & Reform (DPER) on 15 February 2019.
- ii. Options in respect of transfer of staff from the Law Society in accordance with Section 26 of the 2015 Act are at a significantly advanced stage.
- iii. Short term staffing solutions:
 - Head of Legal Team has returned to parent Department at end of secondment.
 - Project lead on design of Part 6 processes and procedures commenced on fixed term contract 3 April 2019.
 - Staffing at 11 persons.

2.3 Stakeholder Engagement update provided.

2.4 Audit of 2018 Internal Controls:

Onsite work completed. LSRA awaiting final report. Summary findings provided to LSRA show no reportable breaches with a small number of minor issues highlighted to be addressed.

2.5 Roll of Practising Barristers established.

Just over 2,500 practising barristers enrolled by end March 2019. The Executive is to provide more detail on statistics to the Authority on the breakdown of non-Law Library barristers on the Roll.

Part 3:

3.1 Update on communications activities involving presentations and articles relating to LSRA.

3.2 Premises. Approval of Workforce Plan by DPER is key to progress.

3.3 Levy. Dealt with under Part 1.

3.4 Legal Education and Training Symposium (Section 34 Report). A three stage approach to be taken on next steps arising from Section 34 report in 2019, namely:

- **Stage One:** Further Consultation with Professional Bodies, then with other Stakeholders and Wider Community;
- **Stage Two:** Symposium on Legal Education & Training;
- **Stage Three:** Further Report to the Minister under Section 34.

Part 4:

4.1 Risk Management update. CEO flagged that additional Risk on Superannuation now included on the Risk Register. It is anticipated that this risk will be substantially addressed before the next Authority meeting.

3.0 Delegated Functions

Executive has analysed how best to manage the administration of delegated functions under the Act. Analysis has shown that the approach required is necessarily bureaucratic and a streamlined approach cannot be applied. The policy and procedures for delegations is being finalised by the Executive and has included a detailed analysis of the 2015 Act. The approach will be to put in place a formal register of duly authorised staff, which will be updated as and when any change in delegation arises (addition to or subtraction from specific delegations).

A detailed schedule of authorisations required by the CEO and the staff of the LSRA will be presented at the next Authority Meeting. Where any new functions come into play in the interim under the Act, the CEO will inform the Authority.

Section 3 – Finance

4.0 Financial Reports

4.1 Management Accounts for Period ended 28 February 2019 noted by the Authority.

(Mr Vincent Teo was invited into the meeting at this point)

- 4.2 Draft Financial Statements 2018: Vincent Teo (VT) from LSRA Accountants CrowleysDFK presented the Draft Financial Statements 2018 to the Authority. The Statements were reviewed and approved for presentation to the Authority by the LSRA's Finance, Audit & Risk (FAR) Committee on 22 March 2019.

2018 Financial Statements are for a 12-month period while the 2017 Financial Statements were for a 15-month period. In addition, the levels of activity and staffing levels differ between the 2 periods. These factors are reflected in the comparisons between the 2017 and 2018 figures in the Statements.

Page 9 – Statement of Compliance: VT explained that the development of a Customer Charter and Customer Action Plan are declared as an exception to the DPER code. As LSRA has not commenced Part 6 (Complaints) functions, this requirement has not yet been a priority. CEO explained that the development of these documents will form part of the work on Part 6.

Page 10 - Statement of Internal Control: VT flagged that, while Internal Audit Unit at DJE has completed the audit of the LSRA's 2018 internal controls, the final report has not yet been submitted to the LSRA. It was noted that the preliminary findings given to LSRA showed no reportable breaches in 2018.

Page 12 – Approval by the Authority: The Authority reviewed the wording of the approval and agreed the following text:

“The Statement of Internal Controls has been reviewed by the Authority to ensure it accurately reflects the control system in operation during the reporting period.

A review of internal controls in respect of 2018 was carried out and signed off by the Authority in 2019.

The Authority is believes that the systems of internal control instituted and implemented in the Legal Services regulatory Authority for the financial period ended 31st December 2018 are effective.”

Pages 14, 15 – Authority noted the treatment of income and advances in the Financial Statements as a liability in the absence of any further clarification on the nature of those advances. Expenditure in 2018 noted as €1.29m.

Page 26 – Approval of Financial Statements: The Draft 2018 Financial Statements were approved by the Authority on 4 April 2019, subject to approved amended text and typographical corrections.

Authority Self-Assessment: CrowleysDFK to proceed with arrangements for the Authority's second Self-Assessment process.

(Mr Vincent Teo left the Meeting at this point)

- 4.3 Draft Revised Budget 2019 noted by the Authority. Budget to be reviewed Quarterly. Query raised relating to rounding of figures in Budget to be clarified with Accountants.

Section 4 – LSRA Policy and Implementation

5.0 Finance, Audit and Risk (FAR) Committee – Chairperson’s Report

FAR Committee Chairperson provided an update report from the Committee’s meeting of 22 March 2019. It was noted that the Draft 2018 Financial Statements formed the bulk of activity at the recent FAR Committee meeting. In addition, the update referred to the completion of the Audit of Internal Controls for 2018 and the addition of an additional Risk to the Risk Register on Superannuation. The Risk on Superannuation is being actively addressed by the Executive.

6.0 Annual Report 2018:

The Authority noted and approved the Draft Annual Report 2018. Executive to finalise with formatting and text review. Report will be submitted to the Minister and the Joint Oireachtas Committee on Justice & Equality by 30 April 2019.

7.0 Update on Part 6 – Complaints:

CEO explained that a target date of end Q2 was included in the LSRA’s first Strategic Plan for the commencement of the Complaints function under Part 6 of the 2015 Act.

Executive has been progressing a series of work streams required for the implementation of functions under Part 6, including:

- (a) Workforce Plan (submitted to DPER 15 February 2019);
- (b) Design of individual options for offer to staff who are eligible to transfer to LSRA from the Law Society under Section 26 of the 2015 Act;
- (c) Recruitment planning for direct recruit staff, pending approval of Workforce Plan;
- (d) Identification and procurement planning for short-term IT solution for case Management System for Part 6;
- (e) Design of Policies and Procedures for Complaints system, including guidance, applications, inspections systems, process mapping, information sharing, data protection and retention, gap analysis,

- reporting requirements, accommodation and infrastructure for Complaints function under Part 6;
- (f) Analysis and Identification of regulatory requirements and mapping processes against legislation for compliance;
- (g) Committees;
- (h) Legal Practitioners Disciplinary Tribunal (LPDT) transition
- (i) Training and development.

In relation to Workforce Plan, approval for recruitment is required before LSRA can make steps to put the required levels of resources in place for this and the other functions within the organisation, including finance/corporate and legal units.

While the LSRA submitted its finalised Workforce Plan for approval to the Department of Public Expenditure & Reform (DPER) on 15 February 2019, no response in respect of the plan has been received.

In parallel with these work streams, LSRA has been working on Roll of Practising Barristers and the introduction of two new business models namely, Legal Partnerships and Limited Liability Partnerships.

Due to external impacts on LSRA's planning and implementation schedules, in particular the absence of any response from DPER in respect of the approval of the Workforce Plan to build the organisation, it is not now feasible for the LSRA to safely commence Part 6 at end Quarter 2. In the light of this reality, it was proposed to the Authority that early Quarter 4 be set as the revised target.

The Authority expressed concern over the delays being experienced by the Executive, in particular in respect of the approval of the Workforce Plan at DPER. The Executive were instructed to press the matter further with DPER, particularly the urgency to have Part 6 in operation.

The Authority were concerned that the absence of engagement from DPER was posing a real threat to the LSRA in the performance of its functions under the 2015 Act and, in particular, the introduction of an independent complaints system under Part 6 of the Act.

The Authority, in addition to recording its grave concerns in the minutes of the meeting, also gave consideration to writing to the Minister for Public Expenditure & Reform, if no response from DPER is forthcoming or if the approval of the Workforce Plan is further delayed, setting out the impact of such delays on the implementation of the functions of the LSRA as set out in the 2015 Act.

In addition, the Authority expressed concern in respect of the viability of seeking to recruit persons with suitable experience and expertise where the

starting salary point is the starting point of a scale. The Authority noted the challenges involved and approved the revised timetable. The Executive to provide updates on progress at subsequent Authority meetings.

8.0 Legal Partnerships (LPs) Limited Liability Partnerships (LLPs) and Code of Practice for Practising Barristers

Regulations and Code available for Authority Members on the Minutepad document library.

Due to Brexit impacts, the commencements for the new business models are in a holding pattern behind Statutory Instruments associated with the various potential Brexit outcomes. Indications from DJE suggested that the commencements will be completed before end April. Following this, the Chairperson and CEO will arrange to sign the Regulations and process through the IT system for SIs.

9.0 Section 218 – Advertising

Authority informed that on 24 January 2019, the EU Commission issued a Reasoned Opinion to Ireland in respect of infringement of the EU Services Directive, specifically in relation to the prohibition or restriction of the advertising of legal services in the State.

The LSRA has a function in this regard under Section 218 of the 2015 Act and the DJE has been in communication with the Executive to seek progress on the matter. In this context, the Authority approved for the Executive to commence the Public Consultation process on Advertising Regulations as soon as practicable as the first phase of activity under Section 218. This approval is given in anticipation of the commencement of Section 218 in due course but noting that engagement in the Public Consultation will not be delayed on that basis.

CEO also informed the Authority that there is a standing commitment for the LSRA to engage with the EU Commission on the draft Regulations arising under Section 218 and this will be worked into the process.

10.0 Closed Session

11.0 AOB

Dealt with at beginning of Meeting.

Action Points – Meeting of 4 April 2019	
Agenda Item	Action
1.3	<ul style="list-style-type: none"> Minutes of 21 February 2019 to be corrected under 7.0 (review of PII levels): <i>PII Levels will be reviewed by the Authority after a period of 12 months from the date of this decision.</i> Any agreed amendments to be flagged at the subsequent meeting where such amendments arise.
2.0 Part 2 (2.5)	<ul style="list-style-type: none"> Executive to provide more detailed statistics on breakdown of non-Law Library barristers on the Roll.
3.0	<ul style="list-style-type: none"> A detailed schedule of authorisations required by the CEO and the staff of the LSRA to be presented at the next Authority Meeting. Where any new functions come into play in the interim under the Act, the CEO will inform the Authority.
4.2	<ul style="list-style-type: none"> Revised text under Approval of the Authority in Draft 2018 Financial Statements as follows: <i>“The Statement of Internal Controls has been reviewed by the Authority to ensure it accurately reflects the control system in operation during the reporting period.</i> <i>A review of internal controls in respect of 2018 was carried out and signed off by the Authority in 2019.</i> <i>The Authority is believes that the systems of internal control instituted and implemented in the Legal Services regulatory Authority for the financial period ended 31st December 2018 are effective.”</i>
4.2	<ul style="list-style-type: none"> Authority Self-Assessment: CrowleysDFK to proceed with arrangements for the Authority’s second Self-Assessment process.
4.3	<ul style="list-style-type: none"> Secretary to check rounding queries on Draft Budget with Accountants.

	<ul style="list-style-type: none"> Executive to monitor 2019 Budget and Review on a Quarterly Basis.
6.0	<ul style="list-style-type: none"> Executive to finalise and submit 2018 Annual Report to the Minister and the Joint Committee by 30 April 2019.
7.0	<ul style="list-style-type: none"> Executive to pursue issue of approval of Workforce Plan with DPER seeking early resolution. Executive to revise implementation plan for Part 6 with a view to commencing operations in early October 2019. Authority to write to Minister for Public Expenditure & Reform in the absence of progress on approval of Workforce Plan.
8.0	<ul style="list-style-type: none"> Code of Practice and Regulations to be signed by Chairperson and CEO following legislative commencements; Code and Regulations to be processed and issued accordingly.
9.0	<ul style="list-style-type: none"> Executive to commence the Public Consultation process on Advertising Regulations as soon as practicable as the first phase of activity under Section 218. LSRA to engage with the EU Commission on the draft Regulations arising under Section 218 at that stage of the process.

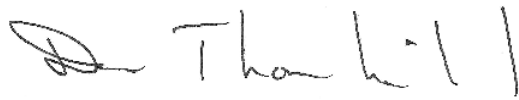
FINAL Minutes Signed



20 June 2019

Ultan Ryan, Secretary

Date



20 June 2019

Don Thornhill, Chairperson

Date