

MINUTES

BOARD MEETING 28 FEBRUARY 2018

Board: Sir David Bean, Chair
Professor Nicholas Hopkins, Commissioner for Property, Family and Trust Law
Stephen Lewis, Commissioner for Commercial and Common Law
Professor David Ormerod QC, Commissioner for Criminal Law
Nicholas Paines QC, Commissioner for Public and Welsh Law
Phil Golding, Chief Executive
Bronwen Maddox, Non-Executive Director

Attendees: Matt Jolley
Laura Burgoyne
Henni Ouahes
Jessica de Mounteney
Elizabeth Welch (item 11)
Josh Griffin (item 11)
Christopher Pulman (item 11)

Apologies: Sir David Bell
Gulzar Gill
David Connolly

Item 1: Approval of Minutes of the Meeting of 31 January 2018

1.1 The minutes were approved, with minor typo at paragraph 1.10 observed.

Item 2: Matters Arising

1.2 The Chair said he was sorry to report the death of Sir Paul Jenkins who had been due to address the Board in the near future.

1.3 The Chair offered the Board's congratulations to Henni Ouahes, the newly confirmed Team Manager for the Public Law Team.

Item 3: Board Report and Forward Look

1.4 In response to discussion about the Communications Grid, DO suggested that if each Commissioner were to speak at, say, five universities every year most law schools would receive some sort of engagement with the Commission once every three years. This would help with efforts around Research Assistant outreach, as well as raise awareness of the work of the Commission. The Chair asked for a list of University Law

Schools, with details of which have already been visited by (a) Commissioners in the last three years (b) RAs, as part of this year's outreach.

- 1.5 Commissioners provided updates on each of their projects. SL said there had been no progress on the draft Goods Mortgages Bill with HMT, despite the arrival of new officials and Ministers. Commissioners discussed whether there was likely to be any appetite for legislation. PG said he would raise the issue again when meeting with PBL.
- 1.6 SL said that he hoped to be in a position to consult on a revised Insurable Interest Bill by the end of March. In response to PG, he thought it might be a suitable candidate for a Special Procedure Bill at some stage in the future; it is a small contained Bill which could be a safe prospect given the current Parliamentary pressures.
- 1.7 NH updated Commissioners in relation to Making Land Work; he was due to meet with PBL and MoJ officials the following day to discuss prospects for a Bill slot. There are very real resource concerns within the Commission were there to be immediate pressure to introduce the Bill. It is also the case that MoJ will need to consult on the Bill.
- 1.8 DO said that the responses to the Sentencing consultation had been very positive. A Youth Justice strand would be consulted upon shortly and MoD have now confirmed that they would like to be involved in the project and are willing to pay for the additional drafting resource.
- 1.9 NH said that the Call for Evidence on Commonhold had gone very well. He said that, more generally for the Residential Leasehold project, the position in Wales would need careful consideration as some aspects of the project are undoubtedly devolved. A draft MoU with the Welsh Government is being worked on. The Terms of Reference and MoU for the project generally have been approved by SpAds and are now with the Minister.
- 1.10 NP said he was concerned about the timescales for the Immigration Rules project, particularly given the lead lawyer's secondment to the Department of Health for two days a week. Efforts have started to try to identify a lawyer who can be drafted in to help support the project.
- 1.11 PG said that he was currently considering the levels of income to be deferred into next year but said that, as things currently stood, the budgetary position in 2018/19 appeared to be doable, albeit tight.

Item 4: Tailored Review

- 1.12 PG said that detail of what the Review would cover was still not known. It seemed likely that the review would be much lighter than the Triennial Review, but it seems that there is quite a lot of discretion on the part of those conducting the Review, as well as the sponsoring Department, to determine how best to approach the Review. It was likely, looking at the guidance, that the Review would at least need to consider whether the core purpose of the Commission was still the most appropriate. BM queried where the main risk lies – who else could do what the Commission does? The Board thought the Commission had addressed many of these arguments in the

Triennial Review and very little had changed, indeed, there is now a more positive story to tell inasmuch as the Commission is undertaking more work for less core funding, despite the volatility of the model.

- 1.13 Commissioners agreed to consider possible stakeholders who it would be helpful for the Review to talk to. Likely priorities would be: parliamentarians; senior judiciary; our Non Executive Board members; civil servants with whom we have worked; possibly First Parliamentary Counsel.

Item 5: Work with the Law Commission

- 1.14 PG asked the Board for approval of the draft document, saying the main recipient would be civil servants who were contemplating working with the Commission. The aim was to provide sufficient information, without going into too much detail. The Board approved the draft, subject to including more focus on in-house Parliamentary Counsel and some revisions to paragraph 1.16, relating to Goods Mortgages. It was also suggested that we should add a section relating to issues raised by Parliamentarians, for example Lord Hodgson's review of Charities. PG said he would draft accordingly.

Item 6: Accommodation Update

- 1.15 PG confirmed that the main detail of the plan has now been approved and furniture ordered. It was likely the move would take place on the weekend of 6-8 April. Commissioners were concerned that not many staff would be around the preceding week as it was Easter. PG said he would raise this with MoJ planners to ensure sufficient time is available for staff to pack.
- 1.16 In relation to storage, PG said that there were some books which no longer served a purpose, for example Statutory Instruments which are now available online. That said, he was not overly keen on simply putting books in a skip without testing whether another home can be found. Given storage costs are relatively low, he suggested itemising the books before going into storage and then publishing on our website to see whether (a) a permanent home can be found and/or (b) anyone in the academic or legal community could make occasional use of them. If, after a couple of years, there has been no use, then the Commission would have to consider destruction.

Item 7: Remote working policy

- 1.17 The Board approved the draft, subject to a revised paragraph having regard to the very rare occasions where an individual is thought not to be working effectively remotely. Although this should be part of a performance management discussion, the policy ought to make clear that arrangements can be revoked or altered. PG said he would redraft on that basis.
- 1.18 Although not necessarily for the Policy, the Board thought it important that those working remotely ensured their diaries are up to date with their location on any given day and that they can easily be contacted by phone. The Chair asked for a revised telephone list ensuring that contact details for remote workers are also reflected. The Board also agreed that guidance should be distributed highlighting how staff can have their phones forwarded to mobile phones.

Item 8: AOB

- 1.19 PG said he had agreed with the Chair that a small working group would be formed to consider how best to improve future diversity of Commissioners, for example through outreach efforts or shadowing arrangements. The first meeting would take place during mid-March. The Board would be kept informed.

Item 9: Presentation by the Land Registration team

- 1.20 The Land Registration Team gave an overview of the project, focusing on fraud and electronic conveyancing.