

# In the balance

The Legal Services Board has performed well so far, but has it done enough to avoid the chop?  
asks **Stuart Bushell**

challenge in attempting to achieve all of this by October 2011, almost 18 months in advance of the date initially anticipated.

The politics of legal regulation in England and Wales are such that the board was never going to have an easy task. The frontline regulators greeted the LSB with a little suspicion, partly because some of its senior staff came from non-legal backgrounds, and there have been some difficult moments; for example, trying to get the Bar to jump on the ABS bandwagon and trying to bring an end to the hostility between the Law Society and SRA.

## High achiever

The board still has its critics, most notably at the Bar, but it has acted unobtrusively and with a degree of patience and has achieved all of its objectives well within

a frontline regulator, with the attendant increase in staffing and costs that this would doubtlessly have involved. A further indication of the LSB's frugality was the remark by chairman David Edmonds at the ABS launch in October, that this was the first occasion when any significant catering had been provided.

All of which places the LSB in a fairly strong position for the future, which is just as well because in April 2010 SRA chairman Charles Plant put several cats among the pigeons by suggesting that the eight legal regulators might be replaced by a single regulator. He did not go as far as promoting the candidacy of the SRA but his remark did have the effect of placing the board and SRA in a sort of rivalry, as the only two eligible bodies. There had been discussion of a Legal Services Authority,

**“The board has acted unobtrusively and with a degree of patience and has achieved all of its objectives well within its self-imposed timetable”**

its self-imposed timetable. ABS arrived on time, at least for members of the Council for Licensed Conveyancers, and although the SRA was unable to join the party on 6 October it is now receiving ABS applications and is likely to be joined by other regulators as licensing authorities over the next few months. All of the approved regulators have achieved the objective of separating their regulatory and trade union activities, albeit only in governance terms, and the Legal Ombudsman Service is up and running well, without too many of the 'difficult' headlines that always seemed to dog its many predecessors.

The board has also operated with commendable economy. It is cutting nine per cent from its budget for 2011, taking it back to the level of £4.5m, which was estimated in 2005. It still has fewer than 40 staff and has avoided the need to act as

with parallels to the role of the Financial Services Authority, at the time of the government white paper in 2005, but this was dismissed as inappropriate. However, the 'regulatory maze' of the then regime does now seem to have been recreated, and a whole host of new legal bodies have been created to confuse the consumer. The idea of a single regulator does have an attractive simplicity, and the LSB, for all its excellent achievements, may have to decide whether it wants to play a different role in the future – though it has to survive the Public Bodies Act first.



Stuart Bushell is legal affairs director at SIFA (Solicitors Independent Financial Advice) and a former Law Society director

**J**ust before the commencement of festivities, Cabinet Office minister Francis Maude announced that the Legal Services Board (LSB) would be in the first tranche of quangos to be subject to the new government review process under the Public Bodies Act 2011. The review will also take in the board's consumer panel and the Office for Legal Complaints (which oversees the Legal Ombudsman). The LSB is one 31 public bodies under the review, which will examine whether its functions are required, whether its activities require political impartiality and whether it should exist at arm's length from government. So, will the board survive what is perceived as a cull of quangos, and, more to the point, should it?

The government white paper of October 2005, which followed the Clementi report, envisaged the LSB as a small, policy-making body, concentrating on legal and economic issues, as well as supervising the approved regulators and licensing authorities. Its operating costs were estimated at £4.5m annually and an ultimate total of about 40 staff was envisaged. The main tasks facing the LSB, when it began its work in earnest in 2009, were to set up the ABS regime, to split the regulatory and representative functions of each of the regulators and to establish the Office for Legal Complaints with the Legal Ombudsman. The board set itself and its frontline regulators a stiff