Risk Management Strategy

1. Policy Statement

1.1. Introduction
The Legal Services Board (**LSB**) needs to perform its statutory duties and deliver its programme of work whilst at the same time meet the competing priorities of time, finance and quality.

Active risk management helps us to do that.

In the context of the LSB's work, a risk is defined as something which could impact on the LSB's ability to perform its duties under the Legal Services Act 2007 (the Act).

1.2. Purpose
The purpose of active risk management for the LSB is to ensure that risks are managed correctly by:
- identifying actual and potential risks;
- assessing and prioritising risks;
- where possible avoiding risks; or
- reducing risks to an acceptable level so that damage to the organisation is minimised.

1.3. Principles
The Board sets the tone and influences the culture of risk management within the LSB.

The risk management strategy adopted by the Board helps us to manage risk in our work by:

- making sure we identify risks to delivery quickly and manage them effectively ;
- helping to ensure that we are compliant with legislation and public sector standards/good practice;
- in light of the size of the LSB, making sure we take a pragmatic approach to the management of risk;
- embedding fully a consistent approach to risk management within the LSB at the level of corporate and project management and reflected in the performance management process.

1.4. Responsibilities
Risk management is an ongoing process within the LSB and there is a collective responsibility for the identification of risk throughout the organisation.

The Board has an overall responsibility to ensure the implementation of an appropriate risk management strategy supported by appropriate structures and processes, and to provide sufficient resources to meet agreed objectives. The Board reviews the Corporate Risk Register every six months and new or rising project risks are reported to it via the monthly programme highlight report.

The Audit and Risk Assurance Committee (ARAC) has a critical scrutiny role in the review of corporate risks on behalf of the Board. They review the Corporate Risk Register three times a year to ensure that the risk management policy is effective and consistent with the Boards attitude to risk. Risks that have risen in likelihood will be flagged for particular attention.

The Chief Executive is ultimately responsible to the Board for the LSB management of risk

The Corporate Director is responsible for ensuring that the risk management strategy is embedded across the organisation on a day to day basis and has overall responsibility for the management of corporate risk, reporting through the Chief Executive.

The Senior Leadership Team is responsible for prioritising, monitoring, evaluating and identifying mitigating actions for corporate risks. As well as continually monitoring the risks assigned to them personally, Members discuss the Corporate Risk Register in full at each monthly SLT meeting.

The Business Planning Associate facilitates this process and maintains the Register.

Project managers identify and assess project risks at the start of any project. Through the course of the project, new risks, or risks that have risen in status are escalated via the programme highlight report. Guidance for project managers on managing project risks and issues is shown in Appendix Two.

Any aspect of the work undertaken by the LSB may have a degree of legal risk attached to it and it is the responsibility of the ***Legal Director*** to advise on the management of this risk. Where a risk requires specific action of this kind it will be reflected in the mitigation section of the risk register.

1.5. Risk training

Training on the LSB's approach to risk management is given to all colleagues on joining the LSB. This training, which includes a face to face briefing, is carried out by the Business Planning Associate and forms part of the colleague induction process.

Project managers and associates receive refresher risk training biennially. This takes place as part of the Programme Board schedule and takes the form of a risk presentation and workshop.

Senior Leadership Team members are given a refresher on risk management biennially as part of the Corporate Risk Register zero-based review. This takes the form of written material and a workshop.

2. Risk Management Process

2.1. Process

The basic principles of risk management are:

- identification
- evaluation
- response
- monitoring

The Risk Management Process is illustrated in Appendix One.

Risk is managed at two levels:

- **Corporate Risk** – a risk that affects the organisation as a whole and is therefore regularly brought to the Board's attention. Risks with the highest scores will be flagged up on the heat map, so that the Senior Leadership Team, Audit and Risk Assurance Committee and Board are able to focus on key risks;

- **Project Risk** – a risk that could prevent any individual project achieving its agreed deliverables and is therefore regularly brought to the attention of the Programme Board and Senior Leadership Team. A Project Risk, or combination of Project Risks, may be such that it is escalated to a Corporate Risk.

2.2. Identification of risk

Risk identification is an ongoing process within the LSB and there is a collective responsibility for the identification of risk throughout the organisation, as well as regular assessment at Programme Board and Senior Leadership Team meetings (see Appendix One).

Corporate risks will usually be identified at Senior Leadership Team meetings and owned by a member of that group. The Business Planning Associate facilitates this process and maintains the register.

When a risk is identified that also impacts on the Ministry of Justice (MoJ), the Office for Legal Complaints (OLC) or the regulators in so far as is possible, we will work with the respective organisation to mitigate those risks and in doing so will ensure that all parties understand their roles and responsibilities.

Risks are categorised in the following areas and should be identified accordingly:

- Strategic – failure to deliver policies that meet the regulatory objectives or the LSB delivers the 'wrong' outcomes

- Financial – lack of finances to carry out activities or lack of formal control or the LSB exceeds its financial limitations
- Environmental – changes to government policy in respect to the activities of the LSB or other external events impact on the LSB meeting its objectives
- Operational – the ability of the internal process of the LSB to function effectively or failure of internal processes causes the LSB to deliver the ‘wrong’ outcomes
- Reputational – justifiable attacks on the credibility of the LSB which diminishes its overall effectiveness

2.3. Evaluation

Risk evaluation is concerned with assessing the ***likelihood*** and ***impact*** of a risk happening. The likelihood and impact and measured on both an ***inherent*** and ***residual*** basis.

Inherent risk is the risk that an activity (event, process, etc) would pose if no controls or other mitigating factors were put in place. While of limited value when used alone, this metric can be used to prioritise newly identified risks and reveal how reliant we are on our controls and mitigating factors.

Residual risk is the risk that remains after controls and mitigating actions have been taken into account. This composite metric reflects how well the organisation has done in designing and implementing internal controls and mitigating actions. This is the more useful of the two metrics as its works as a standalone measure of where the organisation currently stands in terms of active risks; this is why the residual score is used to determine the overall status of the risk.

Likelihood of a risk occurring is assessed by using a scale of one to four where one is remote and four is certain.

The table below is a guide for assessing the likelihood of the risk occurring. It is based on MoJ best practice:

Likelihood	Occurrence
Remote (1)	The risk may occur in exceptional circumstances
Possible (2)	The risk may (probability less than 50%) occur.
Likely (3)	The risk is likely (probability 50%-80%) to occur.
Certain (4)	There is an 80% or greater probability that the risk will occur.

Impact of risk is determined by the effect on the LSB in respect to some or all of the following:

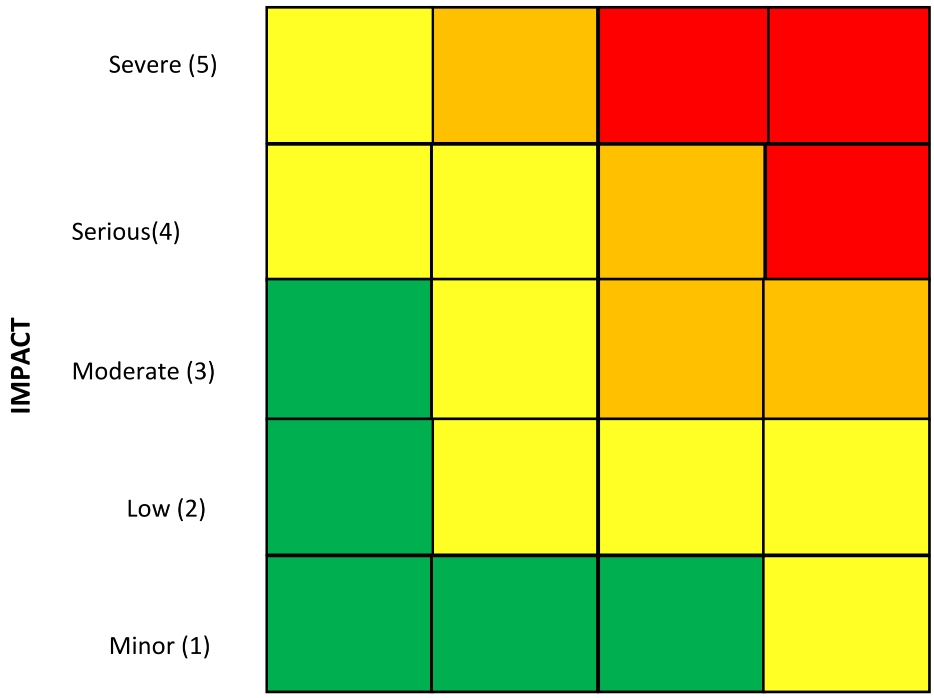
- Cost - financial
- Quality
- Reputation
- Resources
- Scope to fulfil the regulatory objectives/ obligations under the Act
- Time

Impact is evaluated on a scale of one to five where one is minor and five is severe. The table below can be used as a guide to assessing the impact of risks, it is based on MoJ best practice:

Severity of Impact	Possible consequence of Impact	
Minor (1)	Reputation:	Potential for some disillusionment from stakeholders in the short term
	Cost:	Small/ insignificant increase in spend from budgetary forecast
	Time:	Small delay to one key programme deliverable
	Resources:	Some none critical activities could be under-resourced
	Quality:	Little or no service impact on the LSB
	Scope:	Less critical work areas are pushed back in the work plan
Low (2)	Reputation:	Potential for some loss of trust by stakeholders in the short term and short-term negative headlines ***Alternative wording****: Short-term or one-off criticism requiring attention*
	Cost:	5% increase in spend from budgetary forecast
	Time:	Small delay to more than one key deliverables
	Resources:	Potential problems getting the quality of resources needed to carry out activity in the short term
	Quality:	Minimal service disruption having limited impact on the LSB
	Scope:	Less critical work areas pushed back in the work plan until later in the year
Moderate (3)	Reputation:	The LSB loses some operational credibility and some short-term negative commentary in trade press and beyond ***Alternative wording:*** *Increase in negative commentary*
	Cost:	5- 10% Increase in spend from budgetary forecast
	Time:	Failure to meet deadlines in relation to minor programme deliverables
	Resource:	The LSB is under resourced in quantity and quality and is unable to perform/ react to new work on the appropriate time scale
	Quality:	Moderate service disruption leading to an adverse impact on the LSB and/or the quality of the LSB's regulatory effectiveness in a key policy area is criticised by approved regulators
	Scope:	The LSB is unable to perform adequately all of the activities it is required to undertake by the Act

Serious (4)	Reputation:	The LSB loses operational credibility and attracts regular critical commentary within the trade press and beyond **_Alternative wording:_** _Settled stakeholder/media view that LSB is failing_
	Cost:	10-20% increase in spend from budgetary forecast
	Time:	Delay to implementation of some policy strands which will impact delivery of significant elements of the LSB programme
	Resource:	LSB is under resourced in quantity and quality and is unable to react to new work or deliver the planned programme on the appropriate timescale.
	Quality:	Major service disruption having serious impact on the LSB and/or the quality of the LSB's regulatory effectiveness is independently criticised
	Scope:	The LSB is struggling to fully deliver its statutory responsibilities
Severe (5)	Reputation:	The LSB loses operational credibility and is publicly and justifiably criticised in national media by high-profile commentators **_Alternative wording:_** _LSB facing existential threat; leadership openly questioned_
	Cost:	More than 20% increase in spend from budgetary forecast
	Time:	Delay to implementation of some policy strands which will impact delivery of LSB programme and have significant implications for key stakeholders
	Resource:	LSB resources are inadequate to deliver planned programme and react to any new issues
	Quality:	Service failure within the LSB and/or the quality of the LSB's regulatory effectiveness is consistently independently criticised.
	Scope:	The LSB is unable to fulfil its statutory function in one or more areas

All risks are logged on a Risk Register and their status classified against a judgement of risk **residual likelihood** and **impact**, based on the tables below:



Class	Severity	Description
Red	**Critical risk**	Critical impact - Immediate action needed
Amber	**Severe risk**	Active management needed
Yellow	**Material risk**	Active decision needed on whether to manage or monitor the risk. Status of the risk is regularly monitored
Green	**Manageable risk**	Status of the risk to be periodically review

A change in the rating of a risk is known as a **risk trend**. The Risk Trend will also be logged and will be assessed at each review point. The Risk Trend will be one of Stable/Rising/Reducing.

2.4. Response to risk

The LSB's tolerance for risk will depend on the area of business to which the risk is attached. The Board has agreed that:

- the tolerance for **Operational** (including financial) risk will be low. The priority here being business as usual.
- the tolerance for **Strategic** (including environmental and reputational) risk will be relatively high.

The Board will put in place a strategy to mitigate risks which will include one or more of the following elements:

- **Preventing** the risk from occurring by doing things differently and thus removing the risk, where it is feasible to do so. Counter-measures are put in place that either stop the threat or problem from occurring or prevent it having any impact on the LSB;
- **Reducing** the impact of the risk by taking action to control it in some way where the actions either reduces the likelihood of the risk developing or limits the impact on the project to acceptable levels;

- **Transferring** the risk - this is a specialist form of risk reduction where the management of the risk is passed to a third party via, for instance, an insurance policy or penalty clause, such that the impact of the risk is no longer an issue for the LSB. Not all risks can be transferred;
- **Contingency planning** should the risk occur there are actions planned and organised to come into force as and when the risk occurs.
- **Accept** the risk because the likely consequences are insignificant or it is unlikely to occur. A risk may also be accepted if the consequence of the risk is outweighed by the likelihood of a larger benefit and/or by larger risks arising from inaction or if the potential costs of minimising the risk outweighs the cost consequences of the risk itself.

The register records both controls already in place and mitigating actions that are planned but have not yet been put in place.

Mitigating actions: How mitigating actions should be recorded

In order for all action points to be tracked and the relevant colleagues held accountable for their completion, mitigating actions must be captured in a sufficiently 'SMART' manner:

S – Specific: a specific action is distinct and defines as much of the action's goal as possible and contains no ambiguous language.

M – Measurable: It needs to be clear when the action has been completed and the effect it aims to achieve.

A – Achievable: The action needs to be feasible with the resources and timeframe available.

R – Relevant: The action needs to be specific to the risk rather than part of a larger wide-ranging strategy

T – Time-bound: Action timeframes must be aggressive yet realistic. Ongoing processes (as opposed to one-time actions) should be recorded in 'controls already in place' rather than 'mitigating actions to take'.

An example of a SMART mitigating action for the risk of cyber-attack:

Introduce cyber security e-learning module to be completed by all staff by December 2017

The LSB operates within an environment where certain risks are unavoidable and we have limited ability to influence or control them. This risk environment will be considered annually by the LSB usually by way of a PESTLE (Political/Economic/Social/Technological/Legal/Environmental) analysis to identify the baseline level of risk that presents itself as a natural consequence of our environment and which is managed implicitly in everything that we do. These risks are not recorded on the register.

The Board will review its approach to risk on an annual basis and ensure that the action(s) that are put in place to mitigate any risk are proportionate to that risk.

2.5. Monitoring

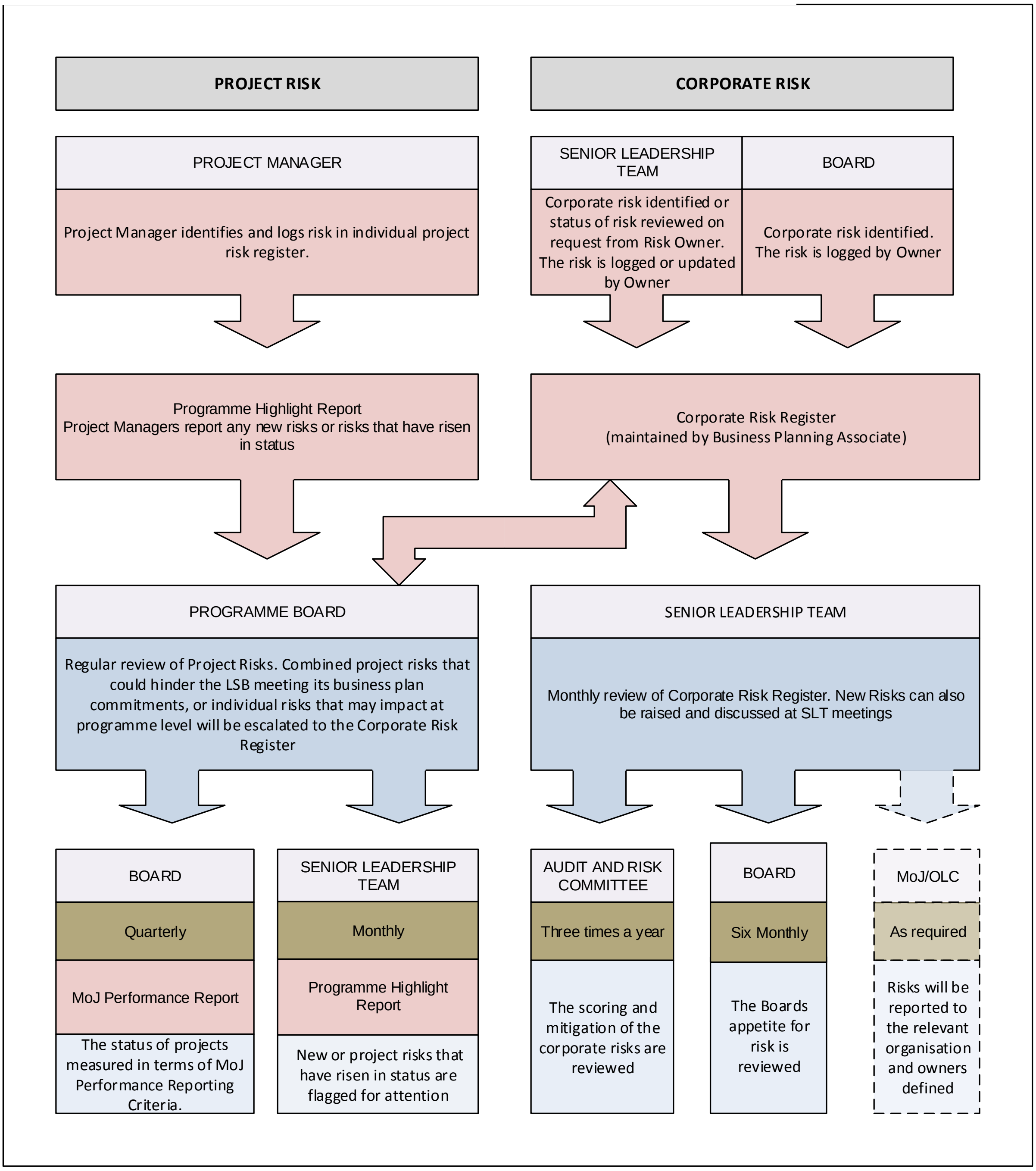
Risks will be reviewed on the following schedule:

	Management Group	Review/Reporting schedule	Procedures
Corporate Risk	Senior Leadership Team members	Monthly	The scoring and mitigation of corporate risks will be reviewed. Any new risks will be added to the register. Any new risks or any that have risen in status will be escalated to the Board via the CEO report. SLT members will also review and, if necessary, update their risks at least once per month. Mitigating controls will be ranked.
	Audit and Risk Assurance Committee	Three times a year	The scoring and mitigation of the corporate risks will be reviewed to ensure that they remain consistent with the Board's policies towards risk. The Risk Management Strategy will be reviewed annually.
	Board	Six monthly	The corporate risk register amended as required. The Board's risk tolerance will be reviewed once a year.
Project Risk	Programme Board	Monthly	New project risks or risks that have risen in status will be reported via the project highlight reports and will be escalated to the Senior Leadership Team and reported to the Board via the quarterly report. The scoring, mitigation and status of the programme risks will be reviewed. New risks will be added and risks closed down if appropriate
	Board	Quarterly	The status of projects measured in terms of the MoJ Performance Reporting Criteria will be reported to the Board on a quarterly basis.

If a risk transpires, we say that that risk will have **'crystallised'**. Such risks (often described as 'issues') will continue to be managed via the appropriate risk register and reported on via the appropriate channel, determined on a case by case basis.

A crystallised risk will always have a likelihood rating of four (certain) and their status as a crystallised risk will be logged in the 'mitigating actions' column of the Register.

APPENDIX ONE: The LSB Risk Management Process



APPENDIX TWO: Guidance for Project Risk and Issues Management

Introduction

1. In terms of managing projects, Project Managers need to be delivering the right thing at the right time and being alert to the problems – the risks and issues - that may impact on that happening.

2. In the course of managing a project, various problems, queries or changes will arise. These will be captured in a consistent and structured way in a Risk and Issues Log so that they can be assessed and managed properly.

3. The following principles apply to Project Risk and Issue Management at the LSB:
   - the LSB's Project Risk and Issue Management Strategy ensures that the LSB is not prevented from meeting its project objectives, by failing to manage changes, concerns or problems that may arise during the lifetime of the project;
   - Risk and issue management is used as a tool to help achieve project deliverables despite problems that arise along the way;
   - project risks and issues can be raised at anytime during a project, by anyone with an interest in the project or its outcome;
   - a project issue may arise from an anticipated but unavoidable risk occurring or on advice of a new risk, however an issue can also be raised in isolation of a risk;
   - if the action taken to resolve a project issue is unsuccessful then it may turn into a corporate risk that must be managed accordingly; and
   - a consistent approach to Project Risk and Issue Management is fully embedded within the LSB.

Project Risk Management

5. The purpose of active Project Risk Management for the LSB is to ensure that risks are correctly identified, that mitigating actions are appropriately focused and implemented so that the required output of the project is achieved.

6. Project Risk Management at LSB is concerned with 'root cause and consequence'. Project risks emerge as the consequence of a problem coming to light, that may stop the Project Manager from achieving the agreed deliverables. Project Managers must identify and actively manage the root cause of the risk to reduce the impact of the consequence occurring. Therefore:

   - **Risk:** the consequence of an action or event that may stop a project manager from achieving the agreed deliverables

   - **The root cause:** the event or action that caused the risk to occur

   - **Mitigation:** what the Project Manager is doing to manage this root cause.

Risk Classification

7. It is likely that most risks can be classified as follows:

- The project will not be delivered on time
- External events impact on project delivery
- Project delivers the wrong thing
- Project damages LSB reputation
- Project exceeds financial limitations.

8. There may be occasions when it will not be appropriate to use one of the generic risks, in these cases a standalone risk can be developed.

9. Examples of both generic and non-generic risks and root causes are given below:

Risk	Examples of Root Cause
Project will not be delivered on time	MoJ resource limitations mean that a (potential) recommendation to the Lord Chancellor to lift the transitional provisions for special bodies cannot be prioritised and there is delay to the timetable
Project delivers the wrong thing and reputational damage to LSB	Failure at RPC stage of lifting of transitional provisions for special bodies is perceived as adding (unnecessary) regulation
Project delivers the wrong thing	Recommendations do not address the variety within the sector - in terms of distinction between different type of Special Body but also within each category (for example the NfP sector)
External events impact on project delivery	QASA (Crime) scheme delayed or not implemented due to opposition from the profession or other stakeholders to the design of proposed scheme
Outcome of will writing work conflicts with the objectives of the smaller AR and Regulatory Standards work streams	If outcome of investigation is new reservation then existing trade bodies & possibly regulators from other sectors are likely to apply for AR status. Even if there is no change the work may lead to some new bodies examining whether

	there are benefits of applying to regulate probate activities. New types of providers will be brought within scope of reserved activities inc. banks, accountants and IFAs that are covered by own sector regulation, this may result in more AR's and will increase the regulatory maze.
Will writing shadow shopping fails to deliver meaningful results (success criteria)	Shadow shopping technique makes it impossible to fully control sample there is no way to ensure that adequate numbers of the different service delivery or consumer types are secured.

Risk Identification and Management Process

10. The Identification of Project Risks should focus on actual events or problems that can be actively managed rather than general uncertainties.

11. Project Risks will be identified and managed using the process outlined in Appendix One.

12. Project Risks will be evaluated in line with the process outlined in the Risk Management Strategy but using only the residual risk measure.

Issue Management

4. An issue for the LSB is any concern, query, change request or suggestion that is raised during the lifetime of the project and requires discrete intervention and action to resolve. The strategy is designed to ensure that the LSB has a consistent approach to managing issues during a project lifecycle. It will ensure that:
    - The LSB, through the Programme Board and the Senior Leadership Team, is aware of issues when they arise and is able to appropriately manage them;
    - actual and potential issues are identified;
    - issues are assessed and prioritised;
    - suitable action is taken to address the issue; and
    - issues have an owner who's responsibility it is to ensure appropriate actions are carried out.

Classification of Issues

5. Issues will be categorised either as a:

- **Project Modification** – a request to make a change to the project specification (outlined in the Project Initiation Document) or acceptance criteria of the project. *E.g. A project deliverable is no longer sufficient to address overall objectives, therefore the project will not meet the defined acceptance criteria. A change to the project specification is therefore requested to ensure that the project does not fail in meeting its objectives;*
- **Project Omission** –identification of something which should have been included in a project but was not, or should currently be included but is not and will result in the agreed specification or acceptance criteria not being met. *E.g. Development of a new internal LSB policy should have taken an overarching MoJ policy into consideration but didn't, it will therefore not meet an objective for an integrated approach to be taken across both organisations;*
- **General Project Issue** – any other issue that arises that will impact on the project specification or acceptance Criteria and requires an answer or solution to rectify it. *E.g. Milestones set in a Project Initiation Document (PID) will not be met due to the need to prioritise workload. Therefore the tangible outputs for particular milestones will be pared back.*

Issue Management Process

6. Project Managers will identify and assess any issues that arise during the lifetime of a project. This will be done on an on-going basis, and will be reviewed along with Project Risks at Monthly Programme Board meetings.

   The Senior Leadership Team and Board will be informed of any issues via the Programme Highlight Report and agree the appropriate action with the Project Manager.

Prioritising Issues

7. The table below is a guide by which project managers should assess and prioritise any issues.

Priority	Definition
High	Definite impact on project schedule, budget, scope or resource
Medium	Possible impact on project schedule, budget, scope or resource
Low	No material Impact

Approved by the Board October 2017