

To:	Legal Services Board	
Date of Meeting:	24 January 2018	Item: Paper (18) 05

Title:	LSB Governance Manual Review	
Workstream(s):	None	
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Status:	Official	

Summary:

In managing its affairs, the Board is obliged to 'have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it' (Section 5 of the Legal Services Act 2007). As part of this, we review the key governance documents, collectively termed 'the Governance Manual', annually.

The Board approved the current version of the manual at its 26 October 2016 meeting.

This paper reports on the 2017 annual review of the LSB Governance Manual and provides recommendations for revisions. The Audit and Risk Assurance Committee reviewed the majority of changes presented to the Board in this paper at its October 2017 meeting.

Since ARAC, the decision to remove the Corporate Director role from the LSB's staffing structure has necessitated further changes to three elements of the governance manual: the Scheme of Delegations and for the Internal Whistleblowing Policy and Reporting and Investigation Scheme, all of which specify responsibilities attaching to the Corporate Director role.

We will bring a revised Scheme of Delegations to the Board early in 2018 when the revised staffing structure is confirmed. In the interim all of the delegations previously given to the Corporate Director will be exercised by the Director of Finance and Services.

The Internal Whistleblowing Policy and Reporting and Investigation Scheme should however be amended and it is proposed that the Corporate Director's role is replaced by the Corporate Governance Manager role in these policies.

All of the component parts of the manual are published on the LSB [website](#).

Recommendation:

The Board is invited to:

- **Consider** and **agree** the suggested areas for revision to the LSB Governance Manual
- Propose any further areas for revision

Risks and mitigations	
Financial:	Good corporate governance promotes accountability, transparency and the effective and efficient allocation of resources.
Legal:	
Reputational:	
Resource:	

Consultation	Yes	No	Who / why?
Board Members:	✓		ARAC
Consumer Panel:		✓	N/A.
Others:	LSB colleagues.		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
N/A		

LEGAL SERVICES BOARD

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LSB Governance Manual – Annual Review 2017

Background

1. The Board approved the current Governance Manual at its meeting on 24 November 2016. The Manual is published on the LSB website¹:
2. This paper sets out recommendations for revisions for some components of the Governance Manual and invites the Board to recommend any further changes. Except for the changes in para 20, these revisions have been reviewed and endorsed by ARAC.
3. The 2017 annual review of the Governance Manual was informed by the following:
 - a. Compliance with the **UK Corporate Governance Code² and Corporate Governance in central government departments: Code of Good Practice 2017³** which states governance arrangements to be '*sufficiently scrutinised*' and '*ensure that there are effective arrangements for governance, risk management and internal control*' and '*internal control systems are effective*'; including '*advising on, and scrutinising[...] implementation of, corporate governance policy*'.
 - b. **BEIS Select Committee: Corporate Governance Inquiry.** On 5 April 2017 the Select Committee published a report on the inquiry on corporate governance. The report made several recommendations and observations in relation to directors duties
 - c. Consultation with LSB colleagues
 - d. Lessons learned from the day-to-day operation of the Manual
 - e. Engagement with colleagues from other organisations on their approaches to some of the areas covered in the Governance Manual
 - f. Changes in legislation in particular the forthcoming General Data Protection Regulations.

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http://www.legalservicesboard.org.uk/about_us/our_board/board_code_of_practice/pdf/2015/20150203_LSB%20Code%20of%20Practice%20for%20Board%20Members.pdf

² Link to [UK Corporate Governance Code 2017](#)

³ Link to [Corporate Governance in central government departments: Code of good practice 2017](#)

Governance Manual

4. The Governance Manual comprises the following documents (hard copies will be available at the meeting for any member that requires them):

[LSB Code of Practice for Board Members](#)

[LSB Rules of Procedure](#)

[LSB Schedule of matters reserved to the Board](#)

[LSB Scheme of Delegations](#)

[LSB Audit and Risk Committee – Terms of Reference](#)

[LSB Remuneration and Nomination Committee – Terms of Reference](#)

[LSB Policy on Colleagues' Expenses](#)

[LSB Policy on Gifts and Hospitality](#)

[LSB Policy on Colleagues' Interests](#)

[Complaints and Disciplinary Process for Individual Members](#)

[LSB Internal Whistleblowing Policy](#)

[LSB Reporting and Investigation Scheme](#)

[LSB Framework Document](#)

[LSB Financial Regulations](#)

UK Corporate Governance Code and Corporate Governance in central government departments: code of good practice 2017

5. The Executive continues to have regard to provisions of the *UK Corporate Governance Code* and *Corporate Governance in central government departments 2017* ('the Code'). The updated code was published in April 2017. Although the Code is specifically aimed at central government departments, and many of its specific provisions are not relevant to the LSB, the requirement to 'comply or explain' applies to any other bodies within the scope of *Managing Public Money*, including the LSB.
6. The Code puts forward that as a minimum there should be a nominations committee and an audit and risk assurance committee with non-executive Board members taking an active role in the forming of such committees⁴. It goes on to say that all Boards should have a nominations committee.⁵ The LSB currently has a Remuneration and Nomination Committee (RNC) (see para 27 for proposed updates to terms of reference for RNC).
7. The Code includes reference to such Boards having a lead non-executive Board member⁶, in the context of the requirement that "these Boards typically will be balanced, with roughly equal numbers of ministers, senior civil servants, and non-executives from outside government." It is in this situation that the Code states that a lead NED should ensure the NEDs meet separately and that

⁴ See Code paras 2.5 and 3.6.

⁵ See Code para 4.3 to 4.5.

⁶ See Code para 3.7.

their views are heard. That does not seem appropriate where all of our board are NEDs, with the exception of the CEO.

8. In relation to Board effectiveness evaluation, the Code sets out that this should be done annually, with independent input at least once every three years⁷. LSB has always conducted an annual Board evaluation but, to date, this has not been with the benefit of independent input. At the end of December 2017, we received MoJ's preliminary decision on the business case request for permission to engage consultants to assist in an external review. We are now discussing with them the tender arrangements.

BEIS Select Committee's report on the inquiry on corporate governance

9. The BEIS Select Committee's report on the inquiry on corporate governance set out a number of recommendations and observations which are currently recommendations to FRC and/or the Government:
 - Directors duties: more effective measures needed so that directors demonstrably take seriously their duties to have regard to stakeholders (which includes employees) and long term consequences of decisions, including recommending the annual report details how companies are conducting engagement with stakeholders;
 - Made recommendations to the FRC to work with business organisations to develop appropriate metrics for an annual rating exercise.
10. BEIS also published a Green Paper on Corporate Governance Reform which considered designating existing non-executive directors (NEDs) to ensuring the voices of key interested groups, especially that of employees, is being heard at board level. As a body with a public and consumer interest remit, LSB already has in place several routes to consider the views of interested groups such as: induction of Board members, attending colleague forums, board to board meetings, individual board member stakeholder engagement, LSB-wide stakeholder engagement, consultation exercise, and frequent Chair and CEO meetings with front line regulators.
11. Following on from the BEIS Select Committee Inquiry and the BEIS green paper on corporate governance, the FRC anticipates consulting in autumn 2017 on changes to the Code. Of note, FRC has highlighted the board members' collective role in setting and monitoring corporate culture as an issue that requires more attention.

⁷ See Code para 4.12.

Approach for the 2017 review of the Governance Manual

12. LSB colleagues, together with OLC and LSCP Secretariat were asked for their feedback, based on their experience of using the manual over the last 12 months. The overarching feedback from all was that the Governance Manual components were easy to follow and adopt Based on 'good housekeeping' and what feedback on areas for improvements we have received, a small number of changes are proposed to components of the Governance Manual.
13. One change requested by colleagues is that all references to Chairman be replaced with Chair, throughout the manual.

Code of Practice for Board Members – no amendments

14. The Code of Practice applies to LSB Members and Legal Services Consumer Panel Members. No matters have emerged in-year that necessitate a change to the Code, although we may need to make some amendments in due course to accommodate the General Data Protection Regulations.

Rules of Procedure – no amendments

15. The Board reviewed and agreed changes to the Rules of Procedure in September 2017. No further amendments are proposed.

Schedule of matters reserved to the Board – no amendments

16. A review of the schedule of matters reserved was undertaken during 2017, and no changes were proposed. The Schedule of matters of reserved refers only to the formal decisions that the Board has to take (and which cannot be taken by anyone else).

Scheme of Delegations – permanent changes postponed

17. Permanent changes to the Scheme of Delegations will be brought to the Board once the revised staffing structure is in place; in the meantime all standing delegations previously delegated to the Corporate Director and as listed on the LSB Scheme of Delegations will be temporarily exercised by the Director of Finance and Services.

ARAC Terms of Reference – no amendments

18. At its March 2017 meeting, ARAC agreed there would be value in providing additional scrutiny to LSB's financial and performance reporting process for assurance purposes. The Committee sought assurance that such activity was within the remit of its Terms of reference. The Committee noted that the current terms are prescriptive about matters that the Committee **MUST** cover, but permissive as regards other matters that the Committee judges relevant to its role. No changes are therefore proposed to the ToR, except removal of reference to the Corporate Director role.

RNC Terms of Reference – amendments proposed

19. RNC has conducted a review of its ToR and recommends that they be amended in line with **Annex A**. The amendments have the effect of shortening the ToR and provided some additional clarity.

Policy on Colleagues' Expenses – no amendments

20. The current reimbursement rates for travel remain unchanged as these are based on approved HMRC levels.

Policy on Gifts and Hospitality – no amendments

21. No amendments are proposed to this policy.

Policy on Colleagues' Interests – one change proposed (though this policy does not form part of the manual)

22. No amendments are proposed to this policy but we do consider that the LSB's declarations of conflicts form should be updated to make it clear what constitutes a "closely associated person". Under Article 3(1)(26) of MAR, a closely associated person is defined as a spouse (or partner considered to be equivalent to a spouse under national law); dependent child, in accordance with national law; a relative who has shared the same household for at least one year on the date of the transaction concerned. We are securing examples of a best practice form to use (this does not form part of the manual).

Complaints and Disciplinary Process for Individual Members – no amendments

23. No amendments are proposed to this policy.

Internal whistleblowing policy – one amendment

24. This policy concerns those within LSB raising concerns about the LSB. The only amendment is to replace reference to the Corporate Director with reference to Corporate Governance Manager.

LSB Reporting and Investigation Scheme – one amendment

25. This policy explains how those who are not employed by LSB may make an allegation or express a concern about fraud or corruption about the LSB. Beyond a typographical correction, the only amendment is to replace reference to the Corporate Director with reference to Corporate Governance Manager.

For noting – whistleblowing allegations received by LSB about approved regulators or the OLC

26. The Board will appreciate that neither of the policies referred to above relate to situations in which the LSB receives information that might be considered *whistleblowing* or *public interest disclosure* about any of the bodies we have a statutory relationship with. The LSB is not a prescribed regulator under the Public Interest Disclosure Act 1988. We are however developing an escalation procedure to assist us with the handling of such disclosures that is appropriate to our statutory role. Historically we have received one such (anonymous) allegation which we passed on immediately to our sponsor department and the organisation concerned (OLC).

Framework document

27. The revised Framework Document has now been signed off by the Chair and Chief Executive and we are just awaiting confirmation from MoJ that it has been signed off at their end also. The document follows the HMT model, and the key changes since the 2011 version have been as follows:
- to reduce unnecessary levels of detail ;
 - to remove words that are inappropriate for an independent regulator NDPB;
 - to remove processes that are not appropriate for our size or remit.
28. A copy can be made available on request – and it will be published on the LSB's website as soon as a final, signed version is received from MoJ.

Financial regulations – minor amendments

29. One minor change will be made to reflect that the main method of paying creditors is now 'faster pay' rather than by 'BACS'.

Next steps

30. The Board is invited to:
- **Consider** and **agree** the suggested areas for revision to the LSB Governance Manual
 - Propose any further areas for revision.
31. Subject to securing the approval of the Board, the updated Governance Manual will be circulated to Board Members, colleagues, and Members of Office for Legal Complaints and Legal Services Consumer Panel. The revised Manual will also be uploaded to the LSB website.