

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	27 November 2014	<b>Item:</b> Paper (14) 70

<b>Title:</b>	LSB Governance Manual Review	
<b>Workstream(s):</b>	None	
<b>Author / Introduced by:</b>	Adewale Kadiri, Corporate Governance Manager <a href="mailto:Adewale.kadiri@legalservicesboard.org.uk">Adewale.kadiri@legalservicesboard.org.uk</a> 020 7271 0070 Terry Babbs, Chair Audit and Risk Committee	
<b>Status:</b>	Unrestricted	

### 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).

The Board last reviewed and approved the LSB Governance Manual at its meeting on 27 November 2013. The Manual is published on the LSB [website](#).

This paper reports on the scheduled annual review of the LSB Governance Manual, and provides recommendations for, in the main, relatively minor revisions, endorsed by the Audit and Risk Committee at its meeting on 5 November.

Subject to the Board's approval, the updated Governance Manual will be uploaded to the LSB website and circulated to members of the Office for Legal Complaints and Legal Services Consumer Panel to draw their attention to the changes.

This paper additionally sets out arrangements for the formal delegation of responsibilities from Chris Kenny, who departs the LSB on 28 November, temporarily to Julie Myers and Caroline Wallace, until the new Chief Executive comes into post.

From 2015, the LSB's whistleblowing policies (internal and external) will form part of the Governance Manual and annual review on the advice of the ARC.

### Recommendation:

The Board is invited to:

- consider the suggested areas for revision to the LSB Governance Manual as endorsed by the Audit and Risk Committee
- propose any further areas for revision
- agree the revised Manual prior to publication and circulation
- note the suggested arrangements for delegation of Chief Executive responsibilities to the Corporate Director and Strategy Director

### Risks and mitigations

**Financial:**

<b>Legal:</b>	Good corporate governance promotes accountability, transparency and the effective and efficient allocation of resources.
<b>Reputational:</b>	
<b>Resource:</b>	

<b>Consultation</b>	<b>Yes</b>	<b>No</b>	<b>Who / why?</b>
<b>Board Members:</b>	✓		Audit and Risk Committee.
<b>Consumer Panel:</b>		✓	N/A.
<b>Others:</b>	LSB colleagues and internal and external auditors.		

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

## AUDIT AND RISK COMMITTEE

<b>To:</b>	Legal Services Board	
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### LSB Governance Manual – Annual Review

#### Background

1. 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 Legal Services Act 2007).
2. The Board last reviewed and approved the LSB Governance Manual at its meeting on 27 November 2013. The Manual is published on the LSB website<sup>1</sup>:
3. This paper reports on the scheduled annual review of the LSB Governance Manual, and provides recommendations for revisions following the Audit and Risk Committee’s detailed review of the Manual at its 5 November meeting. The Audit and Risk Committee formally submits the Manual to the Board for approval and adoption.
4. This year, the review of the Governance Manual was informed by the following:
  - a. KPMG’s Internal Audit report on the LSB’s Statutory Decision Making and its annual report and opinion for 2013/14
  - b. Compliance with the **UK Corporate Governance Code and Corporate Governance in central government departments: Code of Good Practice 2011**
  - c. **Consultation** with LSB colleagues, including members of the Gateway Group
  - d. **Lessons learned** from the day-to-day operation of the Manual.

#### Governance Manual

5. The Governance Manual comprises the following documents (hard copies will be available at the meeting):

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<sup>1</sup> [http://www.legalservicesboard.org.uk/about\\_us/our\\_board/board\\_code\\_of\\_practice/index.htm](http://www.legalservicesboard.org.uk/about_us/our_board/board_code_of_practice/index.htm)

[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](#)  
[LSB Policy on Colleagues' Expenses](#)  
[LSB Policy on Gifts and Hospitality](#)  
[LSB Policy on Colleagues' Interests](#)  
[Complaints and Disciplinary Process for Individual Members](#)  
[LSB Framework Document](#)  
[LSB Financial Regulations](#)

### ***Internal Audit findings***

6. As part of the delivery of their Internal Audit Service to the LSB during 2013/14, KPMG carried out a review of corporate governance and risk management. This included an assessment whether the LSB was operating within its published governance structure, and whether the Board and its Committees were working in accordance with their terms of reference. They concluded that the arrangements in place were acceptable, and that there was evidence to show that these were being followed on a consistent basis. No Performance Improvement Observations (PIOs) were made following this assessment.

### ***UK Corporate Governance Code and Corporate Governance in central government departments: Code of Good Practice 2011***

7. The Executive continues to have regard to provisions of the *UK Corporate Governance Code* and *Corporate Governance in central government departments: Code of Good Practice 2011* ('the Code'). Although the Code is specifically aimed at central government departments, and many of its detailed provisions are not relevant to the LSB, the requirement to 'comply or explain' also applies to any other bodies within the scope of *Managing Public Money*, including the LSB.
8. Code 5.9 states that at least one, but preferably more, of (the ARC) members should have recent and relevant financial experience. The size of the LSB's Board, and the skill requirements on Board members set out in the Legal Services Act makes this stipulation too onerous. There are presently no ARC or indeed Board members with relevant financial experience, but Philip Lindsell, a chartered accountant, continues to provide appropriate technical and expert support to the ARC.
9. There were no other departures from the Code requiring disclosure or explanation.

## ***Annual Board Evaluation and Review exercise***

10. As a result of the changes in Board membership in the last 18 months, the annual Board evaluation and review exercise, which normally takes place during the summer months has been postponed, pending the arrival of the new Chief Executive in February 2015. It is expected that the outcome of this exercise will be reported at the end of 2014/15, as a result of which any further changes, if required, could be made to the Governance Manual in consultation with the Board.

## **Approach for the 2014 review**

11. In light of the above, it is not considered that a wholesale review of the Manual is required, but instead specific revisions are proposed for individual elements of the Manual, as set out below:

### Code of Practice for Board Members

12. The introductory statement at the beginning of the policy is to be amended to reflect the fact that the Code applies as appropriate to LSB, OLC and Consumer Panel members. It should now read as follows:

“This Code of Practice applies to all LSB, OLC and Legal Services Consumer Panel members. All members must adhere to this Code of Practice (or any modification of it agreed by the Board) and act in good faith and in the best interests of the LSB, OLC and Consumer Panel”.

13. In addition, a few minor grammatical and presentational changes are recommended as follows:

- Para 16 relates to Board members’ individual responsibilities. Bullet point 1 should read: “attending and participating fully at Board meetings, and contributing actively to the formulation of policy, including constructive challenge to the Executive”
- The final bullet point of the same paragraph should read: “participating in the annual Board *evaluation* and Board Member appraisal processes”
- Para 25 dealing with complaints against Board members should reflect the fact that this process also applies to OLC and Consumer Panel members and should therefore read: “The LSB’s Complaints and Disciplinary Process for Individual Members (which is published on the LSB’s website) applies to complaints against LSB, OLC and Legal Services Consumer Panel members
- Para 29: insert the word “First” in front of Report of the Committee on Standards in Public Life
- Para 38: substitute Corporate Governance Manager for Board Secretary.

### Rules of Procedure

14. The following changes are recommended to para 1.1 which provides definitions for various terms used throughout the policy:

- At the bottom of page 1, Executive Group should be substituted for Gateway Group and the sentence should read: “Executive Group means the senior management team of the LSB, comprising the Chief Executive, Strategy Director and Corporate Director”
- A new sentence should be added as follows: “The Gateway Group is a forum for colleagues to share issues and discuss strategic priorities at an early stage of formulation.”
- In light of the above, reference to “the relevant member of the Gateway Group in para 3.6.3 should be amended to read “the relevant Executive Director”

15. In light of the decision reached at the September Board meeting, that Board minutes will henceforth be approved via correspondence, and subsequently published, along with relevant papers relating to that meeting, on the LSB website, the following change is recommended to para 3.8.2 of this policy:

- “The Corporate Governance Manager shall record the minutes of every meeting, to be circulated in draft for approval by the Board.”
- Para 3.8.5 should be expanded to read: “The agreed minutes of a Meeting shall be published on LSB’s website, as soon as is reasonably practicable, subject to considerations about withholding information in accordance with the relevant provisions of the Freedom of Information Act 2000.

#### Schedule of matters reserved to the Board

16. The following changes are recommended to this policy:

- Para 2.3: to read: “appointing, dismissing and consenting to the terms and conditions of service of the Chief Executive *and any variations*”
- A new para 2.8 to be added to read: “Appointing, removing and approving the terms and conditions of appointment of special advisers to the Board and its committees and sub-committees”

17. Two changes which would both have the effect of delegating to the Chief Executive powers that are currently reserved to the Board are recommended:

- Para 5.1: The research strategy and annual plan are both included in the LSB Business Plan which is approved by the Board and there is a detailed section on research developments in each CEO report. As such this added requirement for specific Board approval appears excessive. It is therefore recommended that this clause be deleted. In this regard, an extra sentence is to be added at the end at para 3.2 as follows: “This includes approval of the LSB’s research strategy and annual plan.”
- Para 5.2 (and 5.12 which is a duplicate of 5.2): The approval of practising fees for existing approved regulators and licensing bodies is delegated to the Chief Executive, and therefore requiring the Board to approve this for new regulators and licensing bodies appears inconsistent, particularly as the new

bodies' fee structure would already have been approved as part of the designation process. It is recommended that these clauses be deleted.

- Para 5.6(a) is to be deleted – such matters are normally routine and do not warrant the use of Board time
- In para 5.7, reference to the Solicitors' Disciplinary Tribunal is to be included
- Para 5.13 should read: "Approving any recommendation *in whole or in part* to refuse a rule change, so that the Board corporately can assure itself on matters of policy substance and legal risk
- The Committee should note that the contents of paras 7.2 and 7.3 are in line with provisions in the Act, but this process has not been followed to date, at the behest of MoJ. This may be revisited in light of recent events.

### Scheme of Delegations

18. The following amendment is proposed to account for changes that have been made to the LSB's management structure. It may be that further amendments to this policy will be required once the job role of the new Head of Regulatory Reviews and Investigations has been agreed:

- References to the post currently described as Head of Statutory Decisions (HSD) are to be replaced by references to Head of Regulatory Operations and Performance (HROP)
- References to Director of Regulatory Practice are to be deleted and replaced by references to Head of Regulatory Reviews and Investigations (HRRI), as appropriate and it is proposed that that the holder of that post would be a consultee on the use of the LSB's enforcement powers
- References to Head of Development and Research (HDR) to be amended to Head of Research and Development (HRD)
- Under Miscellaneous delegations from the Board to the Chief Executive, and from the Chief Executive, the HRD is to be included as a consultee in relation to agreeing and commissioning research projects

19. Other less significant proposed changes are:

- Including the Strategy Director as a consultee on the agreeing of answers to Parliamentary Questions
- Including an explanatory footnote on the role of Deminos, our outsourced HR advisers, in relation to general line management activities as follows: "A Human Resources consultancy with which the LSB has an arrangement for the provision of specialist advice and assistance to managers, as required."

### Committee Terms of Reference

20. The Terms of Reference of the ARC were reviewed in light of the annual report of the ARC in May 2014, and no substantive amendments were recommended at that time. Two relatively minor amendments are now recommended:

- The name of the Committee is to be amended in line with HM Treasury guidance<sup>2</sup> to the Audit and Risk Assurance Committee (ARAC)
- A new paragraph 13 is to be inserted to read “*Draft minutes of each meeting will be circulated by the Corporate Governance Manager within five working days of each meeting.*” This is to achieve consistency with the RNC.

21. One minor update is to be made to the RNC Terms of Reference:

- The Current members and other attendees section is to be updated to reflect the new membership as follows:

William Moyes (Chairman)

Anneliese Day QC

A further change will be made once a new RNC member has been appointed.

### Policy on Colleagues’ Expenses

22. The Executive agreed at the ARC meeting in May 2014 to conduct a review of the accommodation rates set out in this policy, to assess how they compared to those of other organisations, and to explore the availability of rooms in the Central London area that are within this limit. This review has been completed, and on the basis of its findings, the Executive has no evidence on which to base a recommendation to change the current £120 a night limit.

23. The following amendments are recommended:

- In the second sentence of paragraph 10, the reference to Audit and Risk Committee should be changed to Audit and Risk Assurance Committee in line with the change recommended above
- The first sentence of paragraph 13 should be amended to read: “It is expected that tickets would normally be purchased in advance, as this generally provides better value for money.”
- A minor change is to be made at the end of paragraph 16 to correct a typographical error: “assistance” should read “instance”
- A minor change is to be made to paragraph 22: “has been” in the last line to be changed to “is”.

24. The Annex to the Policy sets out LSB’s current rates for reimbursing expenses related to travel and subsistence. It provides that the Annex may be re-issued, from time-to-time, to reflect alterations in the rates, subject to the approval of the Audit and Risk Committee.

25. The current rates are attached at **Annex A** to this paper. The figures have been checked against the HMRC rates for employee vehicles (mileage payments for business travel). These remain as for 2011, and therefore no increase is

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<sup>2</sup> Audit and Risk Assurance Committee Handbook (HM Treasury) April 2013



required. The Board is invited to consider whether any further amendments should be made to the rates set out at the Annex at this time.

#### Policy on Gifts and Hospitality

26. Para 1 is to be amended to reflect the fact that this policy also applies to Consumer Panel members

#### Policy on Colleagues' Interests

27. Para 1.1 is to be amended to reflect the fact that it also applies to Consumer Panel members.

28. Para 3.4(f) is to be made more specific in terms of the colleagues to which it applies. It should read as follows: "in the case of Board members and members of the *Executive Group*, membership of a registered political party

#### Complaints and Disciplinary Process for Individual Members

29. Two very minor grammatical changes are recommended to this policy:

- In paragraph 10, "expenses at the end of the second sentence should read "expense"
- The first sentence in paragraph 19 should read: "If the LSB member's appointment is to be terminated, the Lord Chancellor will consult the Lord Chief Justice before doing so."

#### LSB Framework Document

30. In May 2012, the MoJ made a recommendation in respect of the Framework Agreement as part of the Stage 2 Triennial Review, as follows:

*Both the LSB and the OLC need to have their Framework Agreements with the MoJ updated to reflect changes which have occurred since they were drafted.*

31. We accepted this recommendation but have yet to finalise revised drafting with the MoJ. We will endeavour to progress this so that a revised Framework Agreement is in place for the 2015/16 financial year.

#### LSB Finance Regulations

32. Two very minor changes are to be made as follows:

- Reference in para 11.4 to the Office Services Coordinator is now changed to Finance and Resources Associate
- The first sentence of para 14.3 will now read: "Colleagues will not use systems for unauthorised access, disclose passwords or use passwords allocated to other people, or load or download software which has not been authorised by the Chief Executive, *or the Director of Finance and Services.*

## **Delegation of Chief Executive's responsibilities**

33. Chris Kenny's last working day at the LSB will be 28 November, and his successor, Richard Moriarty does not come into post until 2 February 2015. As such it is essential that arrangements are in place for the appropriate coverage of the Chief Executive's duties in the interim. Guidance from HM Treasury also stipulates<sup>3</sup> that where an accounting officer is to be absent for a significant period, the sponsor department should be invited to appoint a "temporary acting accounting officer".
34. Paragraph 4.10 of the LSB's Scheme of Delegations states that in the absence of the Chief Executive, the powers delegated to him may be exercised by a member of senior management, nominated by the Chief Executive for such purposes. As the current Chief Executive is leaving the organisation, the Chairman has asked the Corporate Director to take on delegated responsibility for all Accounting Officer functions, as well as other functions listed under the headings 'Human Resources', 'Financial Management' and 'Miscellaneous' within the LSB Scheme of Delegations, while the Strategy Director will oversee all matters delegated within the scheme to the Chief Executive under the heading 'Regulatory activity'. This includes statutory rule approval.

## **Next steps**

35. The Board is invited to agree the recommendations set out in this paper.
36. Once approved, 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.
37. The delegation of the Chief Executive's powers to the Corporate Director and the Director of Strategy will take effect from 1 December 2014, to be exercised on the advice, as required, from the Board Chairman. The Permanent Secretary of the Ministry of Justice has approved the proposal for interim Accounting Officer responsibilities to be vested in the Corporate Director.

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<sup>3</sup> Managing public money (HM Treasury) July 2013

## Current Rates of Travelling and Subsistence (as at 26 November 2014)

This Annex may be re-issued, from time to time, to reflect any alterations in the rates paid.

### 1. Travel

a) By car: rates *per mile*:

- **First 10,000 miles** 45p
- **Over 10,000 miles** 25p

b) Motorcycle allowance: 24p per mile

### 2. Subsistence (based on actual receipts)

a) Day

Lunch - up to £5

Evening Meal - up to £15

b) **Night Subsistence per night**

In the event that it is necessary, to fulfil LSB business, to stay overnight in a hotel, authority must be obtained in advance from their line director (or, in the case of Board or Consumer Panel Members, the Corporate Governance Manager).

#### ***Hotels in London***

Actual expenditure up to a ceiling of £120 for bed and breakfast costs plus if away for at least 24 hours up to £21 for lunch and evening meal unless this is provided.

#### ***Hotels elsewhere***

Actual expenditure up to a ceiling of £100 for bed and breakfast costs plus if away for at least 24 hours up to £21 for lunch and evening meal unless this is provided.