

To:	Legal Services Board	
Date of Meeting:	by circulation	Item: Paper (18) 57

Title:	LSB Governance Manual Review	
Workstream(s):	None	
Author / Introduced by:	[REDACTED] Steph North, Corporate Governance Manager	
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 24 January 2018 meeting.

This paper reports on the 2018 annual review of the LSB Governance Manual and provides recommendations for revisions. An earlier draft of the Governance Manual was presented to ARAC at its meeting on 2 October and changes proposed by ARAC have been incorporated in the latest draft. Suggestions for further changes or updates from Board Members are welcome.

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

Annexes

Annex A: Draft Legal Services Board Governance Manual

Recommendation:

The Board is invited to:

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

Risks and mitigations

Financial:

Legal:

Reputational:

Resource:

Good corporate governance promotes accountability, transparency and the effective and efficient allocation of resources.

Consultation	Yes	No	Who / why?
Board Members:	✓		ARAC
Consumer Panel:		✓	N/A.
Others:	LSB colleagues and key stakeholders from the Office for Legal Complaints and the Legal Services Consumer Panel		

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 2018

Background

1. The Board approved the current Governance Manual at its meeting on 24 January 2018. 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. All changes have been endorsed by ARAC at its 2 October 2018 meeting or have been proposed by ARAC Members since its 2 October 2018 meeting.
3. The 2018 annual review of the Governance Manual was informed by the following:
 - **The UK Corporate Governance Code² - updated in July 2018**
 - **Corporate Governance in central government departments: Code of Good Practice³**
 - **Consultation** with LSB colleagues and key stakeholders from the Office for Legal Complaints and the Legal Services Consumer Panel
 - **Lessons learned** from the day-to-day operation of the Manual
 - **Research** on the approaches to governance taken by similar organisations
 - **Changes** in legislation in particular the new GDPR

¹ Link to [LSB Governance Manual](#)

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

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

Governance Manual

4. The Governance Manual comprises the following documents:
- 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

5. The Financial Reporting Council updated its code in July 2018. In this most recent update, the Code emphasises the importance of building trust by forging strong relationships with key stakeholders – including staff – and calls for organisations to establish a corporate culture that is aligned with its purpose and business strategy, promotes integrity and values diversity.
6. The LSB continues to consider its cultural objectives, and whether they are fit for purpose. As a body with a public and consumer interest remit, the LSB already has in place several routes to forge strong relationships and establish a corporate culture 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.

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

7. Last updated in April 2017, this code states that governance arrangements are to be 'sufficiently scrutinised', that there are 'effective arrangements for governance, risk management and internal control', 'internal control systems are effective' and to include 'advising on, and scrutinising[...] implementation of, corporate

governance policy'. It is specifically aimed at central government departments, and many of its specific provisions are not relevant to the LSB; however, the Executive continues to have regard to its principles and provisions and adopts them wherever relevant and practical.

8. For instance, the Governance Manual complies with the provisions stating that at 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.
9. Conversely, the Governance Manual previously diverged with provisions stating that, in the context of Boards being balanced with 'approximately roughly equal numbers of ministers, senior civil servants, and non-executives'⁵, there should be a lead non-executive Board member that meets regularly with the other non-executive Board Members and ensures that their views are heard⁶. The Governance Manual has been updated to reflect the appointment of a Senior Independent Director, agreed by the Board on 20 September 2018, following a recommendation arising from the external Board evaluation review.
10. 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. The LSB has always conducted an annual Board evaluation and in 2018 completed its first external evaluation. An independent organisational effectiveness consultancy, OE Cam Ltd, submitted the successful tender, and carried out the review between March 2018 and June 2018. A subsequent action plan was agreed at the July 2018 Board meeting, and a discussion on Board members' personal effectiveness as well as individual roles and responsibilities was held at the September 2018 Board strategy session.

2018 review of the Governance Manual

11. The 2018 review found that the documents making up the existing Governance Manual were generally useful and easy to follow as separate, standalone documents. However, when considered as a whole, the existing Governance Manual was found to contain inconsistencies, duplicate information, complex cross-references and structural divergences.
12. To address these issues, the separate documents have been consolidated into a single Governance Manual (Annex A refers). This approach is consistent with the Financial Reporting Council's (FRC's) *Governance Bible* and the Financial Conduct Authority's (FCA's) *Corporate Governance Manual*. In addition, it was thought that this approach would improve the accessibility and understanding of the LSB's governance arrangements by providing a clear, overarching structure

⁴ See Code paras 2.5 and 3.6

⁵ See Code para 3.3

⁶ See Code para 3.7

⁷ See Code para 4.12

to the Governance Manual. This is also consistent with the recent consolidation of the *LSB Colleague Handbook of Policies*.

13. There is a new *Overview* section and sections on the *Role of the Chair, the Board, Board Members and Chief Executive*. This content has been taken from elsewhere in the Governance Manual and placed at the beginning to provide the context and structure for the following material and to reduce duplication. This is consistent with provisions in the FRC's Corporate Governance Code, which places a high level of importance on the roles and responsibilities of the Board and Board Members, and is consistent with the approach taken by the FRC and FCA in their governance manuals.
14. Definitions and terms are now used consistently throughout the Governance Manual. For example, previously *The Policy on Colleagues' Expenses* used 'colleagues' to refer to LSB staff, Board Members, Consumer Panel Members and OLC Board Members. This definition was inconsistent with other documents in the Governance Manual, such as the *Rules of Procedure* which used 'colleagues' to refer to LSB staff only. 'Colleagues' is now used consistently in the Governance Manual to refer to LSB staff only.
15. The structure of each section of the Governance Manual is now more consistent. For example, each policy section now begins with a purpose and scope statement, making clear why the policy exists and to whom the policy applies.
16. Specific amendments to sections of the Governance Manual are outlined below. Editorial amendments, which have been made throughout the Governance Manual to ensure consistency and clarity, are only outlined if they are significant. A track changes version of the Governance Manual detailing all editorial amendments can be provided on request.

Role of the Chair, the Board, Board Members and Chief Executive – new provisions

17. The 'Role of the Chair' section clarifies that the Chair also provides an annual performance assessment of the OLC Chair and the Panel Chair.
18. The 'Role of the Chair' section has a new provision to explain the Chair's role in relation to committees, that is, "The Chair is able to observe meetings of the Audit and Risk Assurance Committee and the Remuneration and Nomination Committee once per year."
19. The 'Role of the Board' section includes two new provisions that are consistent with expectations in the latest UK Corporate Governance Code:
 - "assessing and monitoring the LSB's culture and colleague morale and seeking assurance that the executive has taken corrective action where necessary."
 - "leading by example and promoting the LSB's culture and behaviours."
20. A new section titled 'Role of the Senior Independent Director' has been added.

Schedule of matters reserved to the Board – new provisions and minor editorial changes

21. Item 1.5 has been amended to “Approving the instigation or defence of legal proceedings *or threatened legal proceedings*” (emphasis added) to make it clear that the Board would be involved before proceedings are issued against the LSB.
22. At its meeting on 17 July 2018, the Board approved the governance arrangements for affixing the LSB’s seal. These arrangements are now reflected in the Governance Manual. This schedule reserves “Authorising the affixing of the LSB seal” to the Board and references the *Scheme of Delegations*, which outlines that the affixing of the LSB seal can be undertaken by the Chair or CEO or their nominee.
23. The 2018 review found that the current Schedule of matters reserved to the Board remains appropriate and reflects legitimate expectations, consistent with the findings of the 2017 review. Minor editorial changes have been made to ensure consistency and clarity and to reflect job titles of senior executives.

ARAC Terms of Reference – new provisions and minor editorial changes

24. The ‘Membership’ section includes two new provisions.
 - “...the period of appointment to the Committee shall be agreed by the Chair of the Board.” This provision existed in the RNC ToR and has been added for consistency.
 - “The Chair of the Board may not be a member of the Committee.” This is consistent with The UK Corporate Governance Code⁸ and has previously been a provision in the RNC ToR.
25. The ‘Meetings’ section includes the new provision: “Where necessary, in order to make sure that Committee members are aware of the nuance of a particular debate, a resolution may be circulated to all Committee members after a meeting and a decision taken by email. A decision might be delayed to a subsequent meeting where there is any doubt as to the decision taken.” This provision existed in the RNC ToR and has been added for consistency and to provide ARAC the same flexibility.
26. A new section titled ‘Annual review and remit of performance’ has been included. It states, “The Committee will assess its effectiveness, and will also review these Terms of Reference, annually. It will submit recommendations for any proposed changes to the Board for approval. The Committee’s duties and activities shall be disclosed in the LSB’s Annual Report and Accounts.” This is consistent with The UK Corporate Governance Code⁹ and has previously been a section in the RNC ToR.

⁸ Provision 24.

⁹ Provision 26.

27. An annual cycle of agenda items has been added, consistent with the format of the RNC ToR.

28. Minor editorial changes have been made to ensure consistency and clarity.

RNC Terms of Reference – new provisions and editorial changes

29. The 'Authority' section includes the new provision: "[The Committee is authorised by the Board to...] appoint, remove and approve the terms and conditions of appointment of professional advisors to the Committee." This provision existed in the ARAC ToR and, although implied authority existed for RNC, has been added for consistency and to provide RNC the same flexibility.

30. The table of 'Current members and other attendees' has been removed as this changes from time to time and is reported in the LSB's Annual Report. This is consistent with the format of the ARAC ToR.

31. The 'Meetings' section includes three new provisions to ensure clarity and consistency with the ARAC ToR.

- "The Committee will meet at least two times per year."
- "Draft minutes of each meeting will be circulated by the Corporate Governance Manager within five working days of each meeting."
- "Except in relation to nominations, the Board Chair shall attend no more than one RNC meeting in each year, thus strengthening the independence of the Committee."

32. Editorial changes have been made, primarily to ensure consistency of structure and to reduce duplication of other Governance Manual provisions.

Rules of Procedure – amended provision and minor editorial changes

33. Provision 3.2.3 has been amended to add that "Prior to being dispatched, the Chair may review papers at their discretion."

34. The definitions have been moved to the beginning of the Governance Manual and apply to everything. Apart from this, minor editorial changes have been made.

Code of Practice for Board Members and Panel Members – new provision and minor editorial changes

35. The 'Employment and appointments' section includes the new provision "Board Members and Panel Members are expected to complete their terms of appointment, notwithstanding special circumstances."

36. Contextual information about the role of the LSB and the roles and responsibilities of the Chair, Board Member, Board and Chief Executive have been moved to the beginning of the Governance Manual as previously indicated. Minor editorial changes have been made.

Scheme of Delegations – new and amended provisions, and minor changes

37. As indicated, the governance arrangements for affixing the LSB seal have been added to the Governance Manual, in the *Schedule of matters reserved to the Board* and in this scheme. The new provision in this scheme is below.

Part 1 - Delegations from Board to Chief Executive

Miscellaneous			
Power	Approver	Contributors	Notes
Affixing of the LSB's Common Seal to appropriate documents	Chair or CEO or their nominee	SLA, HCS, CGM	<p>A company seal can only be used with the Board's authority, so there needs to be a Board decision reflected in the minutes of the relevant meeting.</p> <p>The seal should be fixed in the presence of a witness who can attest that the relevant authorisations have been granted. This will normally be either the SLA or the HCS.</p> <p>Register of execution of the seal to be maintained by the CGM.</p>

38. The list of contributors to 'Approving alterations to regulatory amendments' has been expanded to include "relevant Board Members (where the CEO deems the proposed rule changes to be contentious". This allows for greater flexibility to involve Board Members in light of recent contentious rule changes.

39. Consistent with the update to the Rules of Procedure, the Scheme of Delegations makes note that the Chair is able to review Board papers at their discretion prior to dispatch.

40. Minor changes have been made to reflect the latest structures and positions of the executive.

Policy on Complaints and Disciplinary Procedure for Individual Members – minor editorial changes

41. Minor editorial changes have been made to ensure consistency and clarity with the rest of the Governance Manual. It was previously titled *Complaints and Disciplinary Process for Individual Members*.

Policy on Interests – minor editorial amendments

42. Minor editorial amendments have been made to ensure consistency and clarity with the rest of the Governance Manual. It was previously titled *Policy on Colleagues' Interests*.

Policy on Reimbursement of Expenses – new provision and minor editorial changes

43. Reimbursement of late night meals has been included in line with the reimbursement rates approved HM Revenue and Customs levels. Reimbursement of gratuities for taxi fares has been removed.

44. Minor editorial changes have been made to ensure consistency and clarity with the rest of the Governance Manual. It was previously titled *Policy on Colleagues' Expenses*.

Policy on Gifts and Hospitality – minor editorial changes

45. Minor editorial changes have been made to ensure consistency and clarity with the rest of the Governance Manual.

Policy on Whistleblowing – minor editorial amendments

46. The LSB's Senior Independent Director has been included as a contact point.

47. Minor editorial changes have been made to ensure consistency and clarity, including to its title and by inserting a purpose and scope statement. It was previously titled *Internal Whistleblowing policy*.

Policy on Handling External Allegations – scope change and minor editorial changes

48. In consultation with the OLC, this policy has been expanded in scope to apply to OLC Members.

49. Minor editorial changes have been made to ensure consistency and clarity with the rest of the Governance Manual. It was previously titled *LSB Reporting and Investigation Scheme*.

Framework Agreement

50. A revised framework agreement between the LSB and the MoJ was agreed in December 2017, setting out the broad framework within which the LSB operates; the LSB's independent role; the rules and guidelines relevant to the exercise of the LSB's functions, duties and powers as a Non-Departmental Public Body; the conditions under which any public grant funds are paid to the LSB; and how the LSB accounts for its performance.

Financial Regulations – no changes

51. This document was not formally part of the 2018 review. It was last reviewed and updated in 2014/15. The executive recommend that it be reviewed at the five year mark in 2019/20.

Other relevant matters – policy on disclosure of information to the LSB

52. The LSB is not a 'prescribed person' under the *Public Interest Disclosure Act 1998*. Therefore, individuals who make disclosures to the LSB would not be afforded the wider protection given to those who make disclosures to a 'prescribed person'. To not encourage such disclosures to the LSB, the Governance Manual does not address situations where the LSB receives information that might be considered *whistleblowing* or *public interest disclosure* about any of the bodies we have a statutory relationship with. Instead, internal correspondence guidance has been updated to provide colleagues with information on how to handle and respond to such disclosures.

Next steps

53. The Board is invited to:

- **Consider** and **agree** the proposed LSB Governance Manual; and
- **Propose** any further changes to revision.

54. 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 Governance Manual will also be uploaded to the LSB website.