LEGAL SERVICES BOARD

Meeting: LSB Board

Date: 18 July 2023

Item: Paper (23) 45

Title: LSB Corporate Risk Register, horizon scanning and Risk Management Strategy

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Status: Official

Introduction: Purpose of the paper

1. The Board last reviewed the Corporate Risk Register (CRR) at its meeting on 29 November 2022 and last reviewed and agreed the Risk Management Strategy (RMS) at its meeting on 19 July 2022.

2. The Audit and Risk Assurance Committee (ARAC) last reviewed the Corporate Risk Register and RMS at its meeting on 31 May 2023 and recommended its adoption to the Board.

3. The CRR continues to be used by the executive as an active risk management tool and is reviewed by SLT on a monthly basis. SLT also undertakes horizon-scanning on a quarterly basis, most recently in July 2023. This paper discusses the risks on the CRR and invites the Board to discuss potential emerging risks for the executive to consider. The paper also invites Board to agree the current risk management strategy and risk appetite.

Recommendation

4. The Board is invited to:

   - **Agree** the risk management strategy and risk appetite.

   - **Discuss** on the latest version of the Corporate Risk Register.

Corporate Risk Register

5. The latest CRR is at **Annex A**. Currently, there are three risks that exceed or are at the limit of our risk appetite. One risk has been removed from the CRR (Hybrid working) – this risk will now be monitored via the operational risk register (ORR). One risk has been split into two separate risks (EDI). We had intended to add the LSB's office lease risk to the CRR from the ORR, however following the

MoJ's agreement to a new one-year lease on the Rookery to September 2025, we will continue to monitor this risk via the ORR for the time being.

6. Risk 05: Public confidence in legal services regulation is undermined because consumers continue to be underserved by the Legal Ombudsman.

   This risk continues to remain at risk appetite. At the March 2023 Board meeting, a budget to support sustained performance was approved. The OLC continues its work to create a new strategy and will engage with the LSB and wider stakeholders. A decision by Ministers on the future of the OLC is not expected to be imminent. A Board-to-Board discussion with the OLC is scheduled for July 2023.

7. Risk 11: Regulators lack capacity and/or capability to deliver against our expectations.

   This risk is now at appetite however the risk continues to be closely monitored by SLT owing to particular issues at two approved regulators. Work has already begun on engaging the regulators on the new regulatory performance framework.

8. Risk 12a: The LSB's Board is not diverse enough leading to the undermining of its credibility in holding regulators to account on diversity**.**

   This risk has been split from the previous EDI risk to reflect the difference in position between the LSB Board's lack of diversity and the LSB's external work on diversity. This risk is expected to remain out of appetite for some time owing to the MoJ's limited approach to search, and the current planned turnover of Board Members. The LSB has applied to take part in the Board Apprenticeship scheme. An independent advisor has been appointed to ARAC.

9. Risk 12b: LSB approach fails to galvanise the regulators to act in ways that improve the diversity in the profession leading to poorer consumer outcomes and low confidence in the sector

   This risk has been split from the previous EDI risk and relates to the LSB's external work on EDI. The risk is expected to decrease during the year to reflect the LSB's continued focus and the traction and results being delivered.

10. Risk 17: Board turnover during 2023 has a destabilising effect

    This risk is now below risk appetite owing to the successful appointment of a new chair and three new Board members. A Board away day is being planned for the Autumn to discuss ways of working. Board leads and committee membership have been updated and refreshed. The RNC continues to exercise oversight of the longer-term succession planning for Board, as well as OLC and LSCP

11. There is one risk below risk appetite:

12. Risk 20: The prevailing economic climate results in the sector having less time and resource to focus on reshaping legal services to better meet the needs of society.

    This risk remains within appetite. It will remain on the CRR whilst further monitoring is undertaken and the longer-term impacts of the cost of living crisis are seen.

Risk horizon-scanning

13. The SLT's most recent horizon-scanning session was held on 5 July 2023. It was a wide-ranging discussion that identified a number of potential risks that may manifest in the future but are not yet at a level to warrant inclusion in the CRR.

14. There was a discussion on the recent criticisms of regulatory failure in some sectors (eg building, energy and water) and allegations of price gouging in others. SLT reflected on the Post Office scandal and other developments, including fresh media coverage of the allegations made against a leading tax KC and saw a potential for legal services regulation to be criticised for not having tackled conduct issues sufficiently effectively. While SLT was confident that work was now well underway to improve the sector's focus on professional ethics, rule of law etc, addressing the broader risk around sufficiency of regulation may require the LSB to place even greater emphasis on its direct oversight functions. SLT would consider this further as we moved towards board discussions on the budget and business plan. Other subjects discussed included the impact of generative AI, and the possibility of staff changes.

Risk Management Strategy

15. The risk management strategy may be found at Annex B and the Board is invited to consider whether any amendments to the strategy overall and risk appetite are required at this time. The current risk appetite scores may be found below.

Finance	Cautious (3)	Will accept some risk to financial resources. Resources generally restricted to existing, essential commitments, but some low-risk, non-essential opportunities taken if compliant with the spending control framework.
People	Open (4)	Alternative approaches pursued in order to challenge and change current practices and achieve improvements in workforce output and engagement - even if this results in a short term reduction in staff morale
Policy & Legal	Open (4)	Innovation encouraged provided there is reasonable and evidence-based likelihood of commensurate improvements in outcomes. Legal challenge would be problematic but not enough to automatically stop the agreed course of action.
Governance	Cautious (3)	Compliance important. Willing to look at different ways of achieving compliance objectives where clear evidence of improvement in outcomes
Relationships	Seeking (5)	Actively seeks a range of insights including from those whose views may differ from our own. Confidently expresses considered views in pursuit of our strategic objectives even if we know others will disagree with our position. Encourages debate as a way of achieving outcomes.
Delivery	Cautious (3)	Delivery is important. Some willingness to change plans and develop our capability and capacity to pursue delivery. Some scope for non-delivery when faced with difficult circumstances.

16. The executive has proposed two small amendments to the RMS: to circulate the ORR to SLT twice a year rather than quarterly to reflect that it is updated every two months and adding a source of intelligence gathering. These amendments and the strategy and appetite were endorsed by ARAC. The Board is invited to agree the risk management strategy and risk appetite.

Annexes
Annex A: Corporate Risk Register Annex B: Risk Management Strategy

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Communications and engagement:	N/A
Equality and diversity:	N/A
Resource:	N/A
Environmental	N/A

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
Annex A	s36(2)(b)(ii): intended to promote free and frank exchange of views for the purpose of deliberation by the Board.	N/A