Meeting: Legal Services Board

Date: 28 November 2023

Item: Paper (23) 68

Title: Governance Manual Review 2023

Author: Ethan Fleming, Corporate Governance Manager

Status: Official

Purpose of the paper

1. This paper reports on the 2023 annual review of the LSB Governance Manual and provides recommendations for revision. Suggestions for further changes or updates from Board members are welcome.

Recommendation:

2. The Board is invited to **agree** the proposed LSB Governance Manual.

Background

3. 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 Act)). As part of this, the Board reviews the key governance documents, collectively termed 'the Governance Manual', annually.
4. The Board approved the current version of the manual via in November 2022.
5. Subject to securing the approval of SLT, ARAC and the Board, the updated Governance Manual is circulated to Board Members, colleagues, and members of the Office for Legal Complaints and Legal Services Consumer Panel. The revised Governance Manual is also published on the LSB website. A communication will accompany the CGM explaining significant changes and how to raise whistleblowing concerns.

6. The 2023 annual review of the Governance Manual was informed by the following:
   a. Consultation with LSB colleagues and the LSB Board, and key stakeholders including the Office for Legal Complaints and the Legal Services Consumer Panel – consultation took place between 2 August 2023 and 12 September 2023; and
   b. Lessons learned from the day-to-day operation of the Manual.

7. In addition, a number of governance best practice documents were consulted including the UK Corporate Governance Code,[1] 12 Principles of Governance for All Public Body NEDs and counter-fraud guidance issued by the MoJ and central government.
8. On the whole, the 2023 review found that the LSB Governance Manual is a useful document and that previous format changes remained helpful in creating a single governance framework that was both easy to navigate and comprehensive in nature.
9. ARAC considered the manual at its meeting on 15 November 2023 and requested further changes mainly in relation to its own terms of reference, political membership and the role of the SID.
10. Specific amendments to the Governance Manual are highlighted below; minor drafting changes to add clarity are not noted in this covering paper. A track changes version of the Governance Manual is attached at **Annex A**.

Role of Chair, the Board, Board Members and Chief Executive

Added:

11. 1 (last bullet) to explicitly state the Chair's role in the appointment of Board and Panel Members.
12. 8 (fifth bullet) to give the power to commission external advice to the SID subject to consultation with a committee chair. This was on the advice of ARAC in preference to giving the power to the ARAC Chair.

Schedule of matters reserved to the Board

Added:

13. 5.1 which relates to the approval of written consultation responses has been adjusted to now include responses to parliamentary committees. (p12)

ARAC Terms of Reference

14. As part of its review of its effectiveness, ARAC requested that its terms of reference (ToR) be compared to other bodies' ToRs. Whilst the LSB's ARAC ToR compared

[1] The FRC is currently consulting on the code and changes will be reviewed in the next review of the Manual.

well to other bodies[2] with many containing similar provisions, a number of changes to strengthen them were made.

15. After consideration, ARAC agreed it was not necessary to list the skills required but that the committee would keep the skills it needs under review.

Added:

16. The following to the bullets in paragraph 2:
    - Bullet one - That the committee plays a wider role in risk management than the existing language implies.
    - Bullet four – To clarify that the committee not only considers proposals for the tendering of internal auditors, but also should recommend their appointment to the Board.
    - Bullet ten – The committee already considers cyber security and data protection at each meeting and is likely to take a greater role in these areas in the future.
17. 12 That the Chair has the power to convene additional meetings.
18. 14 If that Chair is unable to attend a meeting that the members may elect one of themselves to act as Chair.
19. 19 to explicitly state that the papers will be issued seven days in advance.

<u>RNC Terms of Reference</u>

20. A comparison exercise similar to the ARAC exercise above was undertaken which resulted in minor changes to the RNC ToR. The generic changes to the ARAC ToR were also replicated in the RNC ToR to ensure they remained harmonised.

<u>Rules of Procedure</u>

Added:

21. 3.1.4 The expected level of attendance for Board Members has been slightly increased and clarified to explain that this includes extraordinary meetings.

<u>Policy on Complaints and Disciplinary Procedure for Individual Members</u>

22. A footnote has been added to paragraph 13 outlining the approach to be taken where the Chair is unable to undertake the investigation. Once the Board has approved the change, this will require agreement with MoJ.

<u>Policy on Interests</u>

23. Paragraph 12 previously required membership of political parties to be declared. ARAC agreed that although transparency was important, mere membership of a political party was passive, and did not convey any control. It could also impact on people’s right to a private life and discourage membership of political parties (or discourage those who were members of political parties from applying to be Board

[2] Office for Nuclear Regulation, Independent Parliamentary Standards Authority
Disclosure and Barring Service, Architects Registration Board, Human Fertilisation and Embryology Authority, Gambling Commission, National Archives, Security Industry Authority

Members). Therefore, the wording has been adjusted to set a higher threshold in line with the wording used by the Ministry of Justice when recruiting Board Members.

Policy on Reimbursement of Expenses

Added

24. 15 that commuting costs cannot be claimed however there may be exceptional circumstances on occasion.
25. 16 For maximum inclusivity, the wording relating to occasions when first class travel may be used has been slightly broadened to refer to "compelling" reasons, so as to capture, for example, pregnancy. The HR Manager and Director, Enabling Services will make decisions based on individual circumstances, on a case-by-case basis, to ensure that first class travel remains the exception.
26. The amount that may be claimed for meals and hotel costs has been increased.
27. A full rewrite of this policy is planned for 2024.

Anti-Corruption and Bribery

Added

28. 19 Now contains the legal definition of fraud.

Annexes
Annex A - Corporate Governance Manual 2023 – tracked changes version

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	s.22 – Future publication	N/a