Framework document

Agreement between Ministry of Justice and Legal Services Board

June 2011
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1. Introduction

Status of this document

1.1 The Ministry of Justice (MoJ) has drawn up this Framework document in consultation with the Legal Services Board (LSB). It details the relationship between the MoJ and the LSB and sets out their respective responsibilities to enable both parties to fulfil their respective legal duties. Subject to the Legal Services Act 2007 ("The Act"), it sets out the broad framework within which the LSB will operate and describes, in particular:

- the LSB's role, within statutory parameters and with the regulatory objectives acting as the over-riding framework, in supporting the MoJ's overall aims and objectives;

- the rules and guidelines relevant to the exercise of the LSB's functions, duties and powers as an Executive Non-Departmental Public Body (NDPB);

- the conditions under which any public grant funds are paid to the LSB; and

- how the LSB will account for its performance.

1.2 The MoJ, in consultation with the LSB, will review this framework document immediately after each tri-annual review of the LSB’s status. The first review is scheduled for January 2012.

1.3 Outside such formal reviews, the LSB and/or the MoJ may propose amendments to this document at any time. Any such proposals by the LSB or the MoJ will be considered in the light of evolving MoJ and LSB policy aims, operational factors and the record of accomplishment of the LSB itself. The guiding principle will be that the LSB will have the flexibility and freedom appropriate to its operational needs and the quality of its internal controls. The MoJ will draft, in consultation with the LSB what changes if any, are to be incorporated in the document, and significant variations will require the approval of the Principal Accounting Officer (PAO) and the LSB, and if required, approval by HM Treasury (HMT). Legislative provisions will take precedence over any part of the document.

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1 public funds include not only any funds granted to the LSB by Parliament but also any other funds generated by the levy and other approved activities or falling within the stewardship of the LSB.
1.4 Copies of the document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and will be made available to members of the public online.
2. Aims and objectives

Legal origins of powers and duties

2.1 The LSB was formally constituted as an Executive NDPB on 1 January 2009. It was established by the Act to be the independent regulator with oversight responsibility for the legal services sector in England and Wales.

2.2 The Act is intended to deliver a number of benefits to the consumer. The benefits are:

- greater competition and innovation;
- enhanced access to justice;
- empowered consumers having an improved consumer experience;
- constantly improving legal professions, as diverse as the community they serve;
- clear regulatory structures which command public confidence.

Overall aim

2.3 The overall aim of the LSB is to contribute to the reform and modernisation of the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales.

2.4 It will do this by seeking to improve the delivery of legal services to the general public, and to businesses, by providing consistent oversight regulation to the legal services sector helping to improve performance by ensuring that the Approved Regulators and the Office for Legal Complaints (OLC) carry out their functions to the required standards.

2.5 The LSB oversees the Approved Regulators who themselves are required to ensure independent regulation of the ten branches of the legal profession. The Approved Regulators are:

- The Law Society, who through the Solicitors Regulation Authority regulate practising solicitors;
- The General Council of the Bar, who through the Bar Standards Board regulate practising barristers;
- The Institute of Legal Executives, who through the ILEX Professional Standards Board regulate practising fellows;
- The Council for Licensed Conveyancers who regulate practising licensed conveyancers;
- The Chartered Institute of Patent Attorneys, who through the Intellectual Property Regulation Board regulate practising chartered patent attorneys;
- The Institute of Trade Mark Attorneys, who through the Intellectual Property Regulation Board regulate practising trade mark attorneys;
- The Association of Costs Lawyers, who through the Costs Lawyer Standards Board regulate practising costs lawyers;
- The Master of the Faculties who regulates notaries;
- Institute of Chartered Accountants in Scotland;
- Association of Chartered Certified Accountants.

2.6 The Act allows for the LSB to recommend to the Lord Chancellor additional bodies as Approved Regulators, on application and providing compliance with rules issued by the LSB for this purpose. The Act also allows for the cancellation of a body's designation as an Approved Regulator. The list set out in the above paragraph may therefore be subject to change.

Objectives

2.7 The LSB's starting point in approaching regulation is the clear regulatory objectives set out in the Act. These objectives provide a strategic underpinning for all of the work of the LSB, and the Board will always map its proposals back to them. They are:

- protecting and promoting the public interest;
- improving access to justice;
- protecting and promoting the interests of consumers;
- promoting competition in the provision of services (provided by authorised persons);
- encouraging an independent, strong, diverse and effective legal profession;
increasing public understanding of the citizen’s legal rights and duties; and

- promoting and maintaining adherence to the professional principles (acting with independence and integrity, maintaining proper standards of work etc).

2.8 As an oversight regulator, the LSB expects to deliver the eight regulatory objectives assigned to it by the Act, through partnership working with the Approved Regulators (who also have a duty to deliver the regulatory objectives), consumer groups and other stakeholders.

2.9 In undertaking its regulatory activities, the LSB must have regard to the better regulation principles – that is that regulatory activities should be transparent, accountable, proportionate, consistent and targeted at cases where action is needed and other principles appearing to the LSB to represent the best regulatory practice.

2.10 The LSB will clearly describe what it intends to achieve and deliver in performing its regulatory duties through its business planning and performance framework. These outcomes will reflect its regulatory objectives, and, through them, its contribution to the MoJ’s overall aims and objectives. In establishing its performance framework, the LSB will fulfil its statutory obligations in relation to corporate governance under section 5 of the Act, and have regard to departmental and wider government best practice as appropriate.
3. Governance and responsibilities

Corporate governance

Board appointments - the Chairman and non-executive Board members

3.1 The LSB Chairman and non-executive Board members are appointed by the Lord Chancellor in consultation with the Lord Chief Justice. Such appointments will comply with the Code of Practice of the Commissioner for Public Appointments (OCPA). In practice, the process is approved by the Lord Chancellor and the Lord Chief Justice, and managed on his behalf by the relevant MoJ Sponsor Team. The Selection Panel for Chairman and non-executive Board members will be chaired by the MoJ and its composition will be in accordance with OCPA guidance. The LSB Chairman will be a member of the Selection Panel for Board members. Before appointing the Chairman and non-executive Board members, the Lord Chancellor will consult the Lord Chief Justice.

Appointment of Chief Executive

3.2 Schedule 1 of the Act states that the Chief Executive is appointed by the LSB Board on terms and conditions to be determined by the Board. However, it is MoJ convention that the PAO is notified of such appointments, and will wish to be assured that their terms and conditions comply with the Government's mandated requirements to seek approval for specific salary levels, and the consequent need to benchmark against the wider public sector.

Composition of the Board

3.3 In line with the requirements of the Act, the Board will consist of a Chairman and a Chief Executive together with at least seven and not more than ten other non-executive members that have a balance of skills and experience appropriate to directing the LSB's business. The Chairman of the LSB must be a lay person and the Board as a whole must have a lay majority. The Lord Chancellor sets the selection criteria and qualities in accordance with Schedule 1 of the Act although the LSB will be invited to make representations about specific emphasis that should be applied to the post being recruited.

Accountability

3.4 The LSB is accountable to Parliament through the Lord Chancellor and is sponsored by the MoJ. The relationship is captured in this framework document, which sets out the principles and strategic framework for how both parties will:
• meet their responsibilities;
• ensure regular contact and communicate with one another;
• undertake proper planning and ensure accountability; and
• support each other in the discharge of their respective responsibilities

3.5 Together with the MoJ the LSB jointly acknowledge the need to work together to bring forward the reform and effective regulation of legal services. The MoJ further acknowledges the LSB’s operational independence as described in the Act.

MoJ Responsibilities

Lord Chancellor’s responsibilities

3.6 The Lord Chancellor’s responsibilities include:

• carrying out governance and establishment responsibilities specified in the Act including appointments to the Board (in consultation with the Lord Chief Justice), approving the terms and conditions of Board members, and laying of the annual report and accounts before Parliament;

• approving the appointment of the Chair of the Office for Legal Complaints (OLC) and appointments to the LSB’s Consumer Panel;

• keeping Parliament informed about the LSB’s performance;

• paying the LSB such sums, through grant-in-aid, grant, or other funds, as are deemed appropriate for meeting the LSB’s expenditure and securing Parliamentary approval;

• approving the levy rules for the LSB; and

• considering and acting appropriately on advice and recommendations made by the LSB as set out in the Act.

MoJ Principal Accounting Officer’s (PAO) specific accountabilities and responsibilities

3.7 The responsibilities and accountabilities of a PAO are set out in Chapter 3 of Managing Public Money, and specified below.
3.8 The **MoJ PAO** is accountable to Parliament for any grant-in-aid given to the LSB and is also responsible for advising the Lord Chancellor on:

- how the LSB’s strategic aims and objectives contribute to the MoJ’s current overall aims and objectives, encompassing the requirements of the Act;
- the rules and guidelines relevant to the exercise of the LSB’s functions, duties and powers; and
- the conditions under which any public grant funds are paid to the LSB (“public funds” include not only any funds granted to the LSB by Parliament but also any other funds generated by the levy and other approved activities or falling within the stewardship of the LSB).

**MoJ Sponsor team responsibilities**

3.9 The **MoJ Sponsor Team** is the primary contact for the LSB. They are the main source of advice to the Lord Chancellor and the PAO on the discharge of their accountabilities and responsibilities (above) in respect of the LSB. In particular, they are responsible for ensuring arrangements are in place in order to:

- monitor the LSB’s activities on a continuous basis, ensuring that MoJ monitoring activity is planned, reasonable and proportionate, to assess the LSB’s delivery of its Business Plan, benefits and overall value for money;
- support the Lord Chancellor in appointing the Chair and other ordinary Board members of the LSB;
- inform the LSB of relevant government policy and potential relevant future developments in a timely manner; and
- bring concerns about the activities of the LSB, through the Chief Executive, to the full (LSB) Board, requiring explanations and assurances that appropriate action has been taken.

**LSB responsibilities**

**Responsibilities of the LSB Board**

3.10 The **Board** should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The Board must have an Audit and Risk Committee chaired by an independent non-executive member to provide independent advice. The Board is expected to assure itself of the effectiveness of the internal control and risk management systems.
3.11 The Board as a whole is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of the LSB consistent with its overall strategic direction and within the policy and resources framework determined by the Lord Chancellor;

- ensuring that the Lord Chancellor is kept informed of any changes which are likely to impact on the strategic direction of the LSB or on the attainability of its targets, and determining the steps needed to deal with such changes;

- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated financial thresholds of consent agreed with the MoJ, and in accordance with any other conditions relating to the use of public funds and that, in reaching decisions, the Board takes into account guidance issued by the sponsor, MoJ;

- ensuring that the Board receives and reviews regular financial information concerning the management of the LSB; is informed in a timely manner about any concerns about the activities of the LSB; and provides assurances to the MoJ that appropriate action has been taken on such concerns;

- demonstrating high standards of corporate governance at all times, including by using the independent audit committee to assist the Board in addressing key financial and other risks.

The Chairman’s personal responsibilities

3.12 The Chairman is accountable to the Lord Chancellor. Communications between the LSB Board and Lord Chancellor should normally be through the Chairman.

3.13 In addition, the Chairman has the following leadership responsibilities:

- ensuring that the Board has a properly formulated strategy;

- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Lord Chancellor or the MoJ;

- promoting the efficient and effective use of colleagues and other resources;

- delivering high standards of regularity and propriety; and
• representing the views of the Board to the general public.

3.14 The Chairman also has an obligation to ensure that:

• the work of the Board and its members are reviewed and are working effectively;

• the Board has a balance of skills appropriate to directing the LSB business, as set out in the Government Code of Good Practice on Corporate Governance;

• Board members are fully briefed on terms of appointment, duties, rights and responsibilities;

• he or she, together with the other Board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;

• the Lord Chancellor is advised of LSB needs when Board vacancies arise;

• he or she records an annual assessment of the performance of individual Board members and ensures they are available if individuals are being considered for re-appointment;

• there is a code of practice for Board members in place consistent with the Cabinet Office Model Code.

Individual Board members' responsibilities

3.15 Individual Board members should:

• comply at all times with the Board Members' Code of Practice and with the rules relating to the use of public funds and to conflicts of interest;

• not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;

• comply with the Board's rules on the acceptance of gifts and hospitality, and of business appointments;

• act in good faith and in the best interests of the LSB.

Responsibilities of the LSB Chief Executive
3.16  The PAO has designated the Chief Executive as the LSB's Accounting Officer. The responsibilities of an Executive NDPB Accounting Officer are set out in Chapter 3 of Managing Public Money.

3.17  The Chief Executive as Accounting Officer is personally responsible for safeguarding the public funds for which he or she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of the LSB. In addition, he or she should ensure that the LSB as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management that are set out in Box 3.1 of Managing Public Money.

**LSB Accounting Officer responsibilities for accounting to Parliament**

3.18  The accountabilities include:

- signing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Lord Chancellor;

- signing a Statement of Accounting Officer’s responsibilities, for inclusion in the annual report and accounts;

- signing a Statement on Internal Control regarding the system of internal control, for inclusion in the annual report and accounts;

- ensuring that effective procedures for handling complaints about the LSB are established and made widely known;

- acting in accordance with the terms of this document, Managing Public Money and other instructions and guidance issued from time to time by the MoJ, HMT and the Cabinet Office;

- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee (PAC) on the LSB’s stewardship of public funds.

**LSB Chief Executive responsibilities to the MoJ Sponsor Team**

3.19  Particular responsibilities to the MoJ Sponsor Team include:

- establishing, in consultation with the MoJ, the LSB’s corporate and business plans;
ensuring that timely forecasts and monitoring information on performance and finance are provided to the MoJ; that the MoJ is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the MoJ in a timely fashion.

**LSB Chief Executive responsibilities to the Board**

3.20 The LSB Chief Executive is responsible for:

- advising the Board on the discharge of the LSB responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance from the MoJ, HMT, Cabinet Office or any other relevant source, that may be issued from time to time;

- advising the Board on the LSB’s performance compared with its aims and objectives;

- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed;

- taking action as set out in paragraphs 3.7.5 of Managing Public Money if the Board, or its Chairman, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical.

**LSB responsibilities for the Office for Legal Complaints**

3.21 The LSB will ensure that the OLC Board includes members who (between them) have experience in or knowledge of the requirements outlined in section 4 of Schedule 15 of the Act.

3.22 The LSB will facilitate co-operation between itself, the OLC and Approved Regulators to ensure:

- that the maximum learning is achieved for service improvement, professional training and development and policy development from the activities of the OLC;
the Chief Ombudsman has the help and information needed to ensure that efficient and effective discharge of his functions; and

- the OLC plays its part in aiding Approved Regulators discharge their disciplinary functions.

3.23 Specific statutory responsibilities of the LSB include:

- providing clear and detailed direction/notice to the OLC on the modification of its scheme rules and issuing final consent on these;

- making the rules for the imposition of a levy on the leviable OLC expenditure in accordance with fair principles and with the consent of the Lord Chancellor;

- approving the OLC's annual budget and its corporate and business plans; and

- presenting a copy of the OLC's annual report to the Lord Chancellor and giving the Lord Chancellor and Comptroller and Auditor General a copy of each statement of accounts received from the OLC.

3.24 Specific statutory powers include:

- setting (or directing the OLC to set) performance targets relating to functions of the OLC;

- providing appropriate recommendations to the Lord Chancellor on relevant issues regarding the OLC as outlined in the Act.

3.25 The LSB will discuss the fulfilment of its responsibilities and exercise of its powers in relation to the OLC with the MoJ sponsor team, in particular, in relation to:

- approving the OLC's annual budget; and

- developing a performance framework for monitoring OLC delivery of targets and the regulatory objectives.
4. Finance, planning and reporting

MoJ requirements encompassing Managing Public Money and other government-wide corporate guidance and instructions

4.1 Unless otherwise agreed by the MoJ and, as necessary, HMT, the LSB shall adhere to the principles, rules, guidance and advice in Managing Public Money, referring any difficulties or the case for exceptions to the MoJ Sponsor Team in the first instance. However, notwithstanding this broad compliance requirement, and any other reference to finance in this document, the LSB should note the subsequent paragraphs in this section.

4.2 In recognition of the financial provisions set out in the Act, HMT have granted a concession that netting off will apply, which is detailed at Annex B to this framework, however, there are conditions attached, which if breached may lead to the withdrawal of the concession.

4.3 Each year, in the light of decisions by the Lord Chancellor and PAO, based on the LSB draft Business Plan, the MoJ will formally delegate to the LSB, as close to the 31 March of each year, as is practicable:

- a formal delegated statement confirming the annual budgetary limit approved by the Lord Chancellor for the next financial year;
- an agreed cash holding limit that reflects their requirements for an average year of operations; and
- confirm the reporting mechanism and cycle for the new year.

4.4 As an Executive NDPB, the LSB is inherently part of the public sector financial regime, and comes under the MoJ’s departmental sponsorship. The LSB is financed by an annual levy upon the legal profession and miscellaneous fees but is wholly independent of it. The MoJ provides grant in aid finance, when required, which is included in its Supply Estimates and is subject to Parliamentary control. The Lord Chancellor approves the LSB’s annual budget and levy, and in doing so, ensures both value for money and provides assurance to the public and the legal profession, regarding the level of LSB activity and available resource for the forthcoming year (see 4.6 for capital funding and grant in aid).

4.5 Once the LSB’s detailed budget requirements, have been finalised in consultation with the MoJ, and subject to any restrictions imposed by the Act, the
LSB will have authority to incur expenditure as agreed without further reference to the MoJ, on the following conditions:

- expenditure plans are in line with the amount agreed by the Lord Chancellor as recoverable through the levy on Approved Regulators. Details on the levy operation can be found at Annex B;

- the LSB will comply with the corporate delegations set out in Annex A, which cannot be altered or exceeded without MoJ approval, although the LSB can, at any time, put a case for amendment, to the MoJ sponsor team;

- the LSB will comply with Managing Public Money regarding novel, contentious or repercussive proposals;

- the LSB will comply with European Directives;

- the LSB will consult the MoJ or seek approval where appropriate for any proposed expenditure that is outside the delegated limits, (through the business plan and budget process or separately as appropriate);

- the LSB will provide the MoJ with such information about its operations, performance of individual projects or other expenditure as MoJ may require, in line with the overriding principles set out in this Framework document.

**Capital**

4.6 If any capital expenditure is needed this must be agreed in advance and be included as part of MoJ’s capital allocation included in its Supply Estimate. The approval of the MoJ Investment Committee will be sought for any requests for capital spend above the delegation limit based on a submitted business case for this spend. As the LSB will recover amounts through the levy equivalent to the depreciation charge each year, any grant in aid advanced for capital spend will be treated as a loan by the MoJ and repaid according to the depreciation policy of the capital asset it was used to purchase.

**Cash holding**

4.7 The MoJ will carry out a check of the LSB’s cash holding at the end of each financial year, and in the event of it being significantly greater than its forecast annual expenditure requirement, will discuss with LSB returning the excess to the MoJ.
Procurement

4.8 The LSB shall:

- ensure its procurement policies are consistent with the Office of Government Procurement (OGC), Government (Annex 4.4 of Managing Public Money) and MoJ procurement guidelines and policies;

- comply with all legal obligations including those under the European Communities' Procurement rules and other international agreements;

- ensure that its staff are fully aware of relevant procurement, policies, guidance, and, in particular, relevant delegations;

- put in place a procurement framework which sets out its procurement structure, organisation, processes and control mechanisms. The MoJ will provide LSB with a statement of delegated authority for general procurement; and

- periodically and wherever practicable undertake benchmarking against best practice elsewhere.

The NAO and the Internal Auditors will carry out procurement audit and inspection. The Internal Auditors will have recourse to MoJ procurement as required to properly fulfil their functions on behalf of LSB.

Delegated financial thresholds of consent

4.9 The LSB’s delegated financial thresholds of consent are set out in Annex A. The LSB shall obtain the MoJ’s prior written approval before:

- entering into any undertaking to incur any expenditure that falls outside these financial thresholds or which is not provided for in the LSB’s annual budget as approved by the MoJ;

- incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;

- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the MoJ;

- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
• carrying out policies that go against the principles, rules, guidance and advice in Managing Public Money.

Business and corporate plans

4.10 The LSB will prepare an annual business plan in accordance with the MoJ's planning cycle. The LSB will consult the Minister and the MoJ Sponsor Team informally on the issues to be addressed, including the indicative budget, together with the timetable for preparation; this timetable should incorporate sufficient time to obtain Ministerial comment, a minimum of two weeks, subject to Ministerial availability. The LSB will reflect the outcome of those discussions fully in the document that is published for formal consultation with other stakeholders.

4.11 Following consultation, the LSB will consider whether any changes are needed to the Plan. It will discuss any such proposed changes and the impact, if any, that they have on the budget proposals in the Plan with the Minister and the MoJ sponsor team before the Board makes a final decision on the content of the Plan and the Minister approves the budget. Following those decisions, the final versions will be published by the LSB and made available online.

4.12 Consistent with the timetable for public spending reviews, the LSB will also prepare a corporate plan that covers a three-year period, either as part of the business plan document or separately. If separate, the development of that document will proceed in a similar way to that outlined for the annual plan.

Risk management

4.13 The LSB shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with the Treasury guidance Management of Risk: Principles and Concepts. It should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Treasury's guide: Managing the Risk of Fraud.

Reporting performance to the MoJ

4.14 The LSB shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the Business Plan. The LSB shall inform the sponsors, MoJ of any changes that make achievement of objectives more or less difficult. It shall report financial and non-financial performance. The LSB's performance shall be reviewed by the MoJ through quarterly reports and meetings. One of these quarterly meetings will be between the MoJ Policy Director and the Chief Executive of the LSB.
4.15 The Lord Chancellor or relevant Minister will meet the Chairman (the Chief Executive may also be required to attend) at least once formally each year to discuss the LSB's current and future activities and policy developments relevant to those activities in the context of the business plan and annual report.

**LSB/MoJ working level liaison arrangements**

4.16 Officials of the sponsor team within the MoJ will liaise regularly with the LSB on its financial performance against plans and achievement against LSB targets. The team will also take the opportunity to explain wider policy developments that might have an impact on the LSB. Both parties agree to communicate open and often on an informal basis and to operate on a 'no surprises' basis.

**Annual report and accounts**

4.17 The LSB must publish an annual report of its activities together with its audited accounts after the end of each financial year. The LSB shall provide the MoJ its finalised (audited) accounts before Parliament rises for the summer recess each year.

4.18 In accordance with Part 2 of the Act, the report will outline the LSB’s main activities and performance during the previous financial year and such other matters as directed by the Lord Chancellor and set out in summary the LSB’s forward plans. The annual report will also map its work against the regulatory objectives. Information on performance against key financial targets is within the scope of the audit and should be included in the notes to the accounts.

4.19 The report and accounts shall be laid in Parliament by the Lord Chancellor and will be made available to the public online.

4.20 A draft of the report should be submitted to the MoJ at least two weeks before the proposed publication date.

4.21 The accounts should be prepared in accordance with the relevant statutes and specific accounts direction issued by the MoJ as well as the HMT Financial Reporting manual (FReM).

**Internal audit**

4.22 The LSB shall:

- establish and maintain arrangements for internal audit in accordance with HMT’s Government Internal Audit Standards (GIAS);
- ensure the MoJ is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving appointments
in accordance with GIAS 5.2;

- set up an audit committee of its Board in accordance with the Cabinet Office's Guidance on Code of Practice for Public Bodies and the Audit Committee Handbook;

- forward the audit strategy, periodic audit plans and annual audit report, including the LSB Head of Internal Audit opinion on risk management, control and governance on request to the MoJ; and

- keep records of, and prepare and forward to the MoJ an annual report on fraud and theft suffered by the LSB and notify the MoJ of any unusual or major incidents as soon as possible.

4.23 The MoJ's internal audit service has a right of access to all documents prepared by the LSB internal auditor, including where the service is contracted out.

External audit

4.24 The Comptroller and Auditor General (C&AG) audits the LSB annual accounts and they are laid before Parliament, together with his report.

4.25 The C&AG:

- will consult the MoJ and the LSB on whom – the NAO or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG;

- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the LSB;

- will share with the MoJ information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the MoJ’s responsibilities in relation to financial systems within the LSB;

- will, where asked, provide MoJ and other relevant bodies with Regulatory Compliance Reports and other similar reports which MoJ may request at the commencement of the audit and which are compatible with the independent auditor’s role.

4.26 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the LSB has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access
to documents as provided for under section 8 of the National Audit Act 1983. In addition, the LSB shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.
5. Organisation management

LSB Colleagues

Colleagues' costs

5.1 The number, level and structure of the LSB's staffing complement should be appropriate to its functions and the requirements of economy, efficiency and effectiveness.

5.2 Subject to its delegated authorities, the LSB will ensure the creation of any additional posts does not incur forward commitments that will exceed its anticipated ability to pay for them.

Pay and conditions of service

5.3 The Board of LSB will determine the pay and grading structure and terms and conditions of service for other staff employed by the LSB but should be cognisant of the current year HMT Pay Remit guidance and that all pay increases (the overall envelope) have to be submitted for approval to MoJ. The Pay Strategy will be determined by LSB and benchmarked against appropriate, similar organisations including relevant public sector organisations.

5.4 LSB Board members (public appointees) are remunerated according to the terms and conditions agreed by the Lord Chancellor at the time of their appointment. This is an explicit agreement and any subsequent changes require the further explicit approval of the Lord Chancellor. It is expected that such proposals will have been benchmarked within the MoJ and wider to encompass any specific issues pertaining to the selection criteria of their appointment. Travel expenses of Board members will be tied to the rates allowed to colleagues of the LSB and included in an expenses policy. In general, reasonable actual costs will be reimbursed.

Pensions/redundancy/compensation

5.5 The LSB will normally offer membership of a pension plan to colleagues but not Board members (public appointees). Colleagues may opt out of such membership. The minimum employer contribution by LSB to any contracted-out personal pension arrangement, including a stakeholder pension, will normally be the employers' National Insurance contracted-out rebate level as prescribed by Her Majesty's Revenue and Customs from time to time.

5.6 Any proposals relating to redundancy or severance payments must comply with the rules in chapter 4 of Managing Public Money, and in particular, that only the
HMT has a delegation for this expenditure type, and no such action is implied or commenced before consulting the MoJ, so as not to prejudice any agreed outcome.

Complaints

5.7 The MoJ will refer complaints from members of the public about Approved Regulators to the LSB where these are within the LSB’s remit. Where complaints are received about the LSB, the MoJ will refer these to the Board to deal with directly. However, MoJ retains the authority to manage a complaint process directly in the most serious cases. Complaints about the personal conduct of the Chairman will be considered by the Lord Chancellor. If he decides the complaint should be investigated, he will appoint an independent person to investigate the issue and make recommendations to him about the complaint resolution.

Additional access

5.8 The MoJ will have a right of access to all the LSB’s records as required to discharge the obligations of the MoJ and the PAO.

Security and information assurance

5.9 The LSB is required to provide an annual assurance report to the MoJ in support of the Permanent Secretary’s accountability for security arrangements across the MoJ including its NDPBs and agencies. The report will be initiated by the MoJ Departmental Security Officer through the MoJ Sponsor Team.

Freedom of Information and Data Protection

5.10 The LSB will maintain a central monitoring record of FOI and DPA requests received and dealt with. The MoJ may require this information for inclusion in the departmental statistics.

5.11 The Lord Chancellor has authorised the Chairman and Chief Executive of the LSB to act as “qualified person(s)” as required by Section 36(5)(o)(iii) of the Freedom of Information Act. This authorisation cannot be delegated. In the role as qualified person, and where the LSB has deemed an exemption to disclosure applies, the qualified person must, before applying any exemption, take into account the general right of access to information held by public authorities. Under section 36 of the FOI Act, information can be withheld where – in the reasonable opinion of the “qualified person” – disclosure of that information would, or would be likely to, give rise to one or more of a number of specified prejudices – for example, where disclosure could prejudice the effective conduct of public affairs. Reliance on this exemption is subject to a public interest test, meaning that the public authority in question must demonstrate why the balance of the public interest favours non-disclosure in any given case.
Parliamentary business

5.12 When replying to a Parliamentary Question or speaking in a Parliamentary debate on an issue that falls within the remit of the LSB the Minister will make it clear that they are answering on behalf of the LSB and on the basis of information supplied by the LSB. The LSB will provide such information and, where necessary, advice in a timely manner and to the best of its ability.

Review of LSB status

5.13 The status of the LSB will be reviewed every three years, and this will commence no later than January 2012.

Arrangements in the event that the LSB is wound up

5.14 The MoJ shall put in place arrangements to ensure the orderly winding up of the LSB, which will require primary legislation. In particular, it should ensure that the assets and liabilities of the LSB are passed to any successor organisation and accounted for properly. In the event that there is no successor organisation, the assets and liabilities should revert to the sponsor department. To this end, the MoJ shall:

- ensure that procedures are in place in the LSB to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of the LSB's assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts;
- arrange for the most appropriate person to sign the closing accounts. In the event that another body takes on the role, responsibilities, assets and liabilities, the succeeding NDPB Accounting Officer should sign the closing accounts. In the event that the department inherits the role, responsibilities, assets and liabilities, the MoJ's PAO should sign.
Signed

Date: 27 July 2011

David Edmonds, Chairman of the LSB

Signed

Date: 27 July 2011

Chris Kenny, CEO and Accounting Officer, LSB

Signed

Date: 12 July 2011

Helen Edwards, on behalf of the MoJ
LIST OF ANNEXES

Annex A - List of Delegated financial thresholds of consent

Annex B - The Operation of the Levy

Annex C - List of government-wide corporate guidance instructions
### Annex A – Delegated financial thresholds of consent 2010/2011

<table>
<thead>
<tr>
<th>Category</th>
<th>Threshold</th>
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</thead>
<tbody>
<tr>
<td>Capital Projects L&amp;B</td>
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</tr>
<tr>
<td>Capital Projects IT</td>
<td>£50,000</td>
</tr>
<tr>
<td>Capital Projects Other</td>
<td>£100,000</td>
</tr>
<tr>
<td>Disposals</td>
<td>£10,000</td>
</tr>
<tr>
<td>Gifts</td>
<td>Limits as set out in the Managing Public Money document</td>
</tr>
<tr>
<td>Contingent Liability</td>
<td>Limits as set out in the Managing Public Money document</td>
</tr>
<tr>
<td>Compensation &amp; Special Payments</td>
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<tr>
<td>Severance</td>
<td>£0</td>
</tr>
<tr>
<td>Write Off &amp; Bad Debt</td>
<td>£10,000</td>
</tr>
<tr>
<td>Fraud &amp; Abandoned Claim</td>
<td>£10,000</td>
</tr>
</tbody>
</table>

**Procurement**

£100,000
Annex B - Finance, Netting Off and the Operation of the Levy

1. In accordance with the LSA 2007 the LSB is required to recoup its costs from the Approved Regulators of reserved legal activities by means of an annual levy and miscellaneous fees.

2. HM Treasury (HMT) have confirmed that the LSB should retain any sums that it collects by means of the Levy rather than paying these sums into the Consolidated Fund and this process is called ‘Netting Off’.

3. HMT confirmed that agreement was in line with a decision made in 2006 although there are some conditions attached.
   - In the run-up to each Spending Review or if income fluctuates by more than 15% per annum from the upper limit of £30m per annum- the gross income of the LSB and the Office for Legal Complaints (OLC) from the Levy- MoJ should approach HMT again. HMT will consider whether it is appropriate to continue the agreement to net off the income to meet costs.
   - Confirmation that any financial penalties imposed by LSB will not be subject to a Netting Off agreement and will be returned to the Consolidated Fund.

4. The principles of Netting Off are that:
   - the MoJ provides working capital (cash) through grant in aid;
   - the LSB will retain levy receipts, which are received at the end of the public sector financial year;
   - the LSB will accrue for income not yet received to ensure that the budgetary position is broadly neutral within the public sector financial regime;
   - the LSB will provide monthly financial reports to the MoJ by the 10th working day after the end of the accounting period, in as simpler format as to comply with MoJ requirements;
   - the LSB will submit its cash requirements for any grant in aid, on the basis of need, as a concession on a quarterly basis (normally monthly for NDPBs) in
good time before it is required, and until such time as its working capital is sufficient;
- the LSB will identify any capital requirements before the beginning of the financial year and once agreed will seek capital grant in aid when it is required;
- if the capital requirement exceeds its delegated capital limit, the LSB will submit a business case to seek approval by the relevant MoJ Investment Committee;
- any fines or penalties income shall be paid through the MoJ to the Consolidated Fund by the end of the accounting period during which it was received;
- Any Interest received shall be paid over to the MoJ for payment in to the Consolidated Fund;
- The MoJ will assess the LSB’s cash holding at the end of each financial year and discuss any excess cash holding with the LSB.

5. The LSB will agree a Memorandum of Understanding with each of the Approved Regulators (ARs), which, following the provision of specific information each year, will detail the amounts due to the LSB and to the OLC. This will also contain the payment schedule.

6. The MoJ will also provide any additional cash funding (grant in aid) for exceptional items e.g. to finance the discrete extra costs of defending a Judicial Review or other legal action until such time as these costs can be recouped via the Levy.
Annex C - Compliance with government-wide corporate guidance and instructions

MoJ and LSB will work together to comply with this document and, as appropriate, with the following general guidance documents and instructions:

- This document
- Appropriate adaptations of sections of Corporate Governance in Central Government Departments: Code of Good Practice
- Managing Public Money (MPM)
- Government Internal Audit Standards
- Management of Risk: Principles and Concepts
- Managing the Risk of Fraud
- Government Financial Reporting Manual (FReM)
- Fees and Charges Guide, Chapter 6 of MPM
- Relevant Dear Accounting Officer letters
- Regularity, Propriety and Value for Money
- The Parliamentary Ombudsman’s Principles of Good Administration
- Relevant Freedom of Information Act guidance and instructions
- Model Code for Staff of Executive Non-Departmental Public Bodies (Cabinet Office)
- Other relevant instructions and guidance issued by the central departments
- Specific instructions and guidance issued by the MoJ
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the LSB.