

MANAGEMENT STATEMENT

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0.2	05.08.08	Mark Cope	Inclusion of advice by Legal Services and revisions from Programme Board
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0.4	29.09.08	Cathryn Hannah	Inclusion of comments ahead of LSB Board meeting
0.5	28.11.08	Mark Cope	Inclusion of comments from LSR Programme Board.

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INTRODUCTION

Status of This Document

1. This Management Statement and its associated Financial Memorandum have been drawn up by the Ministry of Justice (MoJ) in consultation with the Legal Services Board (LSB). This Management Statement is not legally binding, nor is it intended to be comprehensive in detail. It sets out the principles that the two parties agree to follow in the course of their day-to-day working. The document will take effect from 1 January 2009.
2. Subject to the Legal Services Act 2007 ("The Act"), this Management Statement sets out the overarching framework within which the relationship between the MoJ and the LSB will operate, in particular:
 - The LSB's role, within statutory parameters and with the regulatory objectives acting as the over-riding framework, in supporting the Ministry of Justice's Departmental Strategic Objectives;
 - The rules and guidelines relevant to the exercise of the LSB's functions, duties and powers;
 - 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); and
 - How the LSB will account for its performance.
3. This document will be reviewed by the MoJ and LSB prior to the LSB becoming fully operational. It will then be reviewed in the context of the periodic reviews of the LSB described in paragraph 43.
4. 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 track record 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, and if required, approval by HM Treasury. Legislative provisions will take precedence over any part of the document.
5. The combined Management Statement and Financial Memorandum will be signed and dated by the Lord Chancellor and Justice Secretary, with the agreement of Principal Accounting Officer, and the LSB Chair and Chief Executive. The MoJ in consultation with the LSB will resolve any questions regarding the interpretation of the document.
6. Copies of this document and any subsequent substantive amendments will be forwarded to HM Treasury and Cabinet Office, the Approved Regulators, the Office of Fair Trading and the Lord Chief Justice and placed in the Libraries of both Houses of Parliament. Copies will also be made available to other

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stakeholders and members of the public on the LSB's website and on demand in hard copy.

AIM, OBJECTIVES AND PRINCIPLES

Overall aim

7. The overall aim of the LSB is to improve the delivery of legal services to the general public, and to businesses, by providing consistent oversight regulation to the legal services sector. The LSB will improve performance by ensuring that the Approved Regulators and the Office for Legal Complaints carry out their functions to the required standards.

Objectives

8. The LSB is required by Part 2 of the Act to act in a way that is compatible with and has the purpose of meeting the following regulatory objectives:
 - Protecting and promoting the public interest;
 - Supporting the constitutional principle of law;
 - 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).
9. The LSB will set key targets through business planning and performance frameworks, which reflect its regulatory objectives, and, through them, its contribution to the MoJ's Departmental Strategic Objectives. In establishing its performance frameworks 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.
10. In doing so, the LSB must have regard to the principles under which 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.

General Principles governing the relationship: There are three overarching principles, which will govern the relationship between the LSB and MoJ

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- The LSB and the MoJ will work together to bring forward the reform of legal services;
- The MoJ acknowledges the independence of the LSB; and
- The LSB acknowledges the statutory responsibility of the Lord Chancellor to report to Parliament on the activities of the LSB.

11. A strong strategic partnership underpinned by close working relationships is required at all levels between the MoJ, its Ministers and the LSB to ensure that the MoJ and the LSB can effectively perform their complementary statutory functions.

12. This in no way detracts from the fact that

- in the majority of areas of its operation, the LSB is independent as a matter of statute;
- the LSB needs to be – and be seen to be – independent of the profession to enhance public confidence in the quality of service provided and the consumers ability to achieve redress in the event of failure;
- the LSB need to be – and be seen to be – independent of Government, other than in the areas prescribed by Parliament, to be an effective bulwark of the independence of legal process from the state. To ensure the above there needs to be:
 - an understanding of the responsibilities of the parties involved;
 - regular contact to debate and to resolve issues pertaining to all aspects of the legal services reform agenda;
 - good communication;
 - proper planning and accountability; and
 - a willingness to support each other in the discharge of their respective responsibilities.

RESPONSIBILITIES

MoJ Responsibilities

13. The Lord Chancellor's responsibilities include:

- carrying out governance and establishment responsibilities specified in the Act including appointments to the Board, approving the terms and conditions of Board members, and laying of the annual report and accounts before parliament;
- keeping Parliament informed about the LSB's performance;
- paying the LSB such sums, through grant-in-aid, grant, or other funds, as he/she deems 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.

14. The Permanent Secretary, as the **MoJ Departmental Accounting Officer**, is responsible for the overall organisation, management and staffing of MoJ and for ensuring that there is a high standard of financial management in the MoJ as a whole. The Departmental Accounting Officer is accountable to Parliament for any disbursement of grant to the LSB. The Departmental Accounting Officer designates the Chief Executive of the LSB as the LSB's Accounting Officer, and may withdraw the accounting officer designation if he/she believes that the incumbent is no longer suitable for the role.

15. In particular the Departmental Accounting Officer will ensure that:

- within its statutory role, the LSB's strategic aims and objectives contribute to the MoJ's wider strategic aims and current Departmental Strategic Objectives;
- the financial and other management controls applied by MoJ to the LSB are proportionate, appropriate and sufficient to safeguard public funds and for ensuring that the LSB's compliance with those controls is effectively monitored;
- the internal controls applied by the LSB conform to the requirements of regularity, propriety and good financial management; and
- any grant or grant-in-aid to the LSB is within the ambit and the amount of the Request for Resources and that Parliamentary authority has been sought and given.

16. The responsibilities of an Accounting Officer are set out in more detail in the annex to Chapter 3 of *Managing Public Money*.

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17. The **Sponsor Team** is the primary source of advice within the MoJ on the discharge of its responsibilities in respect of the LSB, and the primary point of contact for the LSB in dealing with the MoJ. The LSB should generally seek advice and guidance from the sponsor team in the first instance.

18. The Sponsor Team will:

- advise the MoJ on the appropriateness of the LSB's strategic aims and objectives in light of the MoJ's wider strategic aim[s] and current Departmental Strategic Objectives;
- monitor the LSB on how well the LSB is achieving its strategic aims and objectives and whether it is delivering value for money;
- support the Lord Chancellor and the DAO as necessary;
- bring concerns about activities of the LSB, including any complaints received from third parties about the LSB to the attention of the CEO, Chair or full Board, as appropriate and request explanations and assurances that appropriate action has been taken; and
- work with the LSB to address any significant problems in its operations and advise the Lord Chancellor and the DAO as necessary.

LSB Responsibilities

19. **The Chair** is appointed by the Lord Chancellor, for a term of three to five years, in accordance with the Code of Practice, which is compiled and issued by the Commissioner for Public Appointments (OCPA).

20. The Chair has a particular leadership responsibility on the following matters:

- ensuring that the executive function of the LSB performs effectively;
- promoting the efficient and effective use of staff and other resources;
- ensuring that the Board, in reaching decisions, takes proper account of any consultation with the MoJ;
- ensuring high standards of propriety; and
- representing the views of the Board publicly.

21. The Chair will also:

- ensure that all members of the Board are properly inducted;
- advise the MoJ of the needs of the LSB when Board vacancies arise, with a view to ensuring a proper balance of knowledge and experience within the Board as laid out in Schedule 1 of the Act; and
- establish a performance appraisal system, taking into account of OCPA guidelines, for individual non-executive Board members to assess their ongoing effectiveness.

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22. The Chair will also ensure that a Code of Practice for Board Members is in place, taking into account of the Cabinet Office's model Code of Practice for Board Members of Public Bodies.
23. **The Board** members are appointed, by the Lord Chancellor, for a fixed period up to five years, in line with the Code of Practice compiled and issued by the OCPA.
24. The Board, as a whole, has corporate responsibility for ensuring that the LSB fulfils its aims and objectives. To this end, and in pursuit of its wider and corporate responsibilities, the Board will:
 - establish the overall strategic direction of the LSB, in line with the regulatory objectives and wider Government policy objectives, its statutory remit and the resources available;
 - ensure that any statutory or administrative requirements for the use of public funds are complied with;
 - review regular financial information concerning the management of the LSB;
 - demonstrate high standards of corporate governance at all times including by using the independent audit committee to help the Board to address the key financial and other risks facing the LSB; and
 - appoint a Chief Executive to the LSB.
25. Individual Board members will act in accordance with their wider responsibility as Members of the Board defined in the Code of Practice at 3.4.5 and terms of appointment.
26. **The Chief Executive of the LSB** is designated as the LSB's Accounting Officer by the MoJ's Departmental Accounting Officer.
27. The Accounting Officer of the LSB is personally responsible for safeguarding public funds for which he/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/she should ensure that the LBS as a whole is run on the basis of standards, in terms of governance, decision making and financial management that are set out in *Managing Public Money*.
28. For the purposes of Whole of Government Accounts the Chief Executive of the LSB will normally be appointed by the Treasury as the LSB's Consolidation Officer.
29. The Chief Executive may delegate the day-to-day administration of his/her Accounting Officer and Consolidation Officer responsibilities to other employees in the LSB. However, he/she will not assign absolutely to any other person any of the responsibilities set out in this document.

REGULAR CONTACT AND DEBATE

30. It is important that there is regular contact between both parties, so that:

- the MoJ and its sponsorship team are able to consult with the LSB on relevant MoJ and Government policy ahead of formal public consultation; advise on the interpretation of that policy; and issue specific guidance to the LSB as necessary; and
- the LSB is able to consult the MoJ on its policy, ahead of formal consultation, so that the MoJ is able to understand the LSB's regulatory, monitoring, compliance and intervention frameworks and how the LSB plans to develop and deliver these.

Communication

31. Communications between the Board and the Lord Chancellor will normally be through the Chair. To facilitate this mutual understanding the Chair will meet with the Lord Chancellor at least twice per year. The Chair and the Chief Executive will normally communicate with the MoJ on routine matters through the Legal Services Strategy Directorate, Access to Justice.

32. The MoJ and the LSB will ensure there is good communication between them at all levels. Specifically they will:

- keep each other promptly informed about all developments and issues in which the other party may have an interest;
- in reaching decisions within their respective competencies, give careful consideration to the views of the other party;
- request advice from each other in good time and with good reason, explaining how the advice will be used;
- inform each other without delay of any relevant information which may require action or a response from the other party;
- ensure that the other party is given adequate warning of, and sufficient information about, any planned public announcements which might be considered to affect the interests of the other party;
- ensure that risks that may affect either organisation or the legal services reform agenda are communicated between the parties; and
- make available without charge and without any unnecessary delay or restrictions the results of research, information collection or other work which might have bearing on the activities or interests of the other party.

33. The MoJ will ensure that the LSB is made aware of any communications from the MoJ to Approved Regulators individually or collectively on LSB and OLC areas of responsibility. The LSB will ensure that the MoJ is made aware of similar communications it has with Approved Regulators.

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PLANNING AND ACCOUNTABILITY

34. The LSB is an Executive Non-Departmental Public Body (NDPB) created under Section 2 of the Act, which received Royal Assent on 30 October 2007. Detailed provisions setting out the functions, duties and powers of the LSB are found in Part 2 and Schedule 1.

35. For national accounts purposes the LSB is classified to the central government sector. If the LSB were to create a subsidiary or joint venture, there will be a document setting out the arrangements between it and the LSB and such bodies would also be classified to the public sector for national accounts purposes. Detailed provisions setting out the functions, duties and powers of the LSB are found in Part 2 Schedule 1 of the Act. These make clear that the LSB is not to be regarded:

- as a servant or agent of the Crown; or
- as enjoying any status, immunity or privilege of the Crown.

OLC

36. For the avoidance of doubt, the Office for Legal Complaints (OLC) is not considered relevant for the purposes of this statement. The OLC is an Executive NDBP in its own right and will have separate framework agreement(s) setting out its relationship with both the LSB and the MoJ. The LSB duties, as defined in the Act, in relation to the management of the OLC and its financial accountability for the OLC will similarly be dealt with in the separate framework document and supporting material.

The LSB's Corporate and Business Plan

37. Consistent with the timetable for public spending reviews and the MoJ's own planning cycle, the LSB will prepare annually a corporate and business plan. The corporate plan component covering three years ahead and a business plan component, which amplifies as necessary the first year of the corporate plan, to allow for detailed budgeting and resource allocations. The LSB will make this information available in an appropriate format. The LSB will consult the MoJ informally on the issues to be addressed, the timetable for preparation, and the indicative budget ahead of formal consultation with other stakeholders.

38. The corporate and business plan contents will reflect the LSB's statutory duties and, within those, its contribution to MoJ's DSO's. The following key matters should be included:

- key objectives and associated key performances targets for the forward years, and the strategy for achieving those objectives, with the associated resources requirement;
- key non-financial performance targets;
- an assessment of, and mitigation plan to reduce, the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast;

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- a review of the LSB's performance in the preceding financial year, together, to the extent practicable, with comparable outturns for the previous 2 to 5 years, and an estimate for performance in the current year; and
 - Such other matters as may be agreed between the MoJ and the LSB.
39. The first business plan, covering the 2009/2010 Financial Year, with inter alia set out the project management framework to achieve the implementation of the LSB, within the time and budget parameters set by the Minister. As with future plans, the LSB consult informally with the MoJ on content.
40. The corporate and business plan will be the subject of formal consultation with stakeholders and the MoJ. The final version will be published and made available on the Internet and made available to staff.
41. The LSB may supplement the plan from time to time with other strategic and corporate planning statements on which it will consult MoJ.

Reporting Performance

42. The LSB will operate management information and accounting systems which enable it to review, and report in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the business plan.
43. The LSB will take the initiative in informing the MoJ of changes in external conditions or other risks which make the achievement of its strategic aim[s] and objectives more or less difficult, or which may require a change to the budget or objectives set out in the business plan.
44. LSB and MoJ staff will regularly review how the activities of the LSB have contributed to the achievement of the regulatory objectives and MoJ policies including key objectives and vice versa. The LSB will report its performance, formally in the annual report and accounts.
45. The Lord Chancellor or the relevant Minister will meet the Board formally each year to discuss the LSB's performance, its current and future activities and any policy developments relevant to those activities in the context of the business plan and annual report.

Security

46. 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 NDPB's and Agencies. The report will be initiated by the MoJ Departmental Security Officer through the sponsor team.
47. The LSB will also ensure it has an information assurance policy in line with wider Governmental policy.

Complaints and Enquiries from the Public

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48. The MoJ will refer all complaints from members of the public about Approved Regulators, to the LSB.
49. The LSB will have a published policy for the handling of complaints, which will include a statement on how complaints from Approved Regulators are managed.
50. Where complaints are received about the LSB, the MoJ Sponsor Team will usually refer these to the Board to deal with directly under the terms of the policy. However, the Sponsor Team retains the authority to manage a complaints process directly in the most serious of cases.

Freedom of Information – responsibility to consult with third parties

51. The LSB must put in place procedures to handle FOI requests in line with the Freedom of Information Act 2005, wider governmental policies and its statutory requirements under Part 7 of the Act.
52. For consistency, the LSB will consult any other third party (private or public organisation or person) that has an interest in the release of that information. The types of information that may well involve a third party include:
 - contracts;
 - tendering of contracts;
 - information used to develop policy e.g. statistical information which identifies individual people or companies;
 - information provided by foreign governments; and
 - information provided by other public authorities.

53. However, for the avoidance of doubt, the LSB will make public all responses to formal consultation documents unless the responding party specifically requests anonymity.

Additional MoJ access to the LSB

54. 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 Departmental Accounting Officer.

The annual report and accounts

55. After the end of each financial year the LSB will publish an annual report of its activities together with its audited annual accounts. The report will also cover the activities of any corporate bodies, subsidiaries or joint ventures under the control of the LSB. A draft of the report will be submitted to the MoJ a month before the proposed publication date to enable identification of any factual inaccuracies before printing.
56. The report and accounts will be laid before Parliament on a date as agreed with the MoJ. They will be made available on the Internet, in accordance with the guidance on the procedure for the presenting and laying the combined annual

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report and accounts as prescribed in Chapter 13 of the *Executive Non-Departmental Public Bodies Annual Reports and Accounts Guidance*.

MUTUAL SUPPORT

Parliamentary Business

57. The Departmental ministers are responsible for managing parliamentary business on behalf of the LSB on the basis of information provided by and agreed with the LSB. When replying to a Parliamentary Question or when speaking in a Parliamentary debate on an issue falling 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.
58. In answering Parliamentary Questions about the LSB and, in discharging this responsibility, the Sponsor Team on behalf of the relevant minister should seek advice and information from the LSB. The LSB will provide such advice and information in a timely manner and to the best of its ability.
59. The Secretary to the Board of the LSB will be the normal first point of contact for any enquiries and requests from the Department concerning the LSB insofar as it relates to Parliamentary matters.

Ministerial Correspondence

60. Members of Parliament will be encouraged to write directly to the Chair about specific activities, and the administration of the LSB. When Ministers receive correspondence from Members of Parliament on these matters, they may ask the Chair to reply (sending a copy of the reply to the Department's Sponsor Team). Where a Minister decides to reply personally, for example where the correspondence involves wider policy considerations, advice may be sought from the Chair of the LSB and staff on aspects relating to the activities or administration of the LSB.
61. Any correspondence on the MoJ's policies, including general policy on legal services, will be the responsibility of the MoJ. The MoJ will copy correspondence to the LSB as appropriate.

Select Committee

62. Where a Select Committee decides to take evidence from the MoJ on the specific activities and responsibilities of the LSB, the Lord Chancellor may decide to nominate the Chair or Chief Executive or a representative of the LSB to attend the hearings. Where a representative of the LSB has been called to give evidence in their own right, Ministers may also wish to attend or require departmental officials to do so. In all cases it is entirely at the discretion of the Select Committee to decide from whom they will hear evidence.
63. The LSB is not subject to the jurisdiction of the Parliamentary Commissioner for Administration.

REVIEWING THE ROLE OF THE LSB

64. The LSB will be reviewed at least every five years from the date it became fully operational, in accordance with the Cabinet Office for guidance on “lighter touch” reviews. The next review of the LSB will therefore take place no later than 2014-15.