



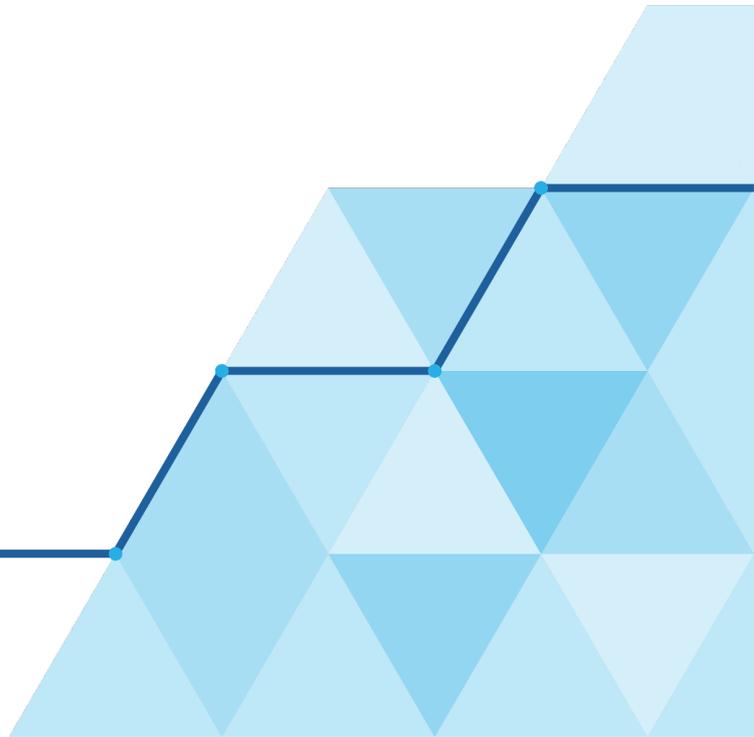
Ministry
of Justice



Law
Commission
Reforming the law

Framework Document between the Ministry of Justice and the Law Commission for England

December 2025



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Introduction and background

1. Purpose of document

- 1.1 This Framework Document has been agreed between the Ministry of Justice (MOJ) and the Law Commission in accordance with HM Treasury's handbook Managing Public Money (MPM) (as updated from time to time) and has been approved by HM Treasury.
- 1.2 The Framework Document sets out the broad governance framework within which the Law Commission and MOJ operate. It sets out the Law Commission's core responsibilities, describes the governance and accountability framework that applies between the roles of MOJ and the Law Commission, and sets out how the day-to-day relationship works in practice, including in relation to governance and financial matters.
- 1.3 The Framework Document does not convey any legal powers or responsibilities but both parties agree to operate within its terms.
- 1.4 Copies of the Framework Document and any subsequent amendments have been placed in the libraries of both Houses of Parliament and made available to members of the public on www.lawcom.gov.uk.
- 1.5 This Framework Document should be reviewed and updated at least every three years unless there are exceptional reasons that render this inappropriate that have been agreed with HM Treasury and the Principal Accounting Officer (PAO) of MOJ. The latest date for review and updating of this document is three years from the date of publication.

2. Objectives

- 2.1 While independent of government, the Law Commission shares with the government a common purpose, in pursuing law that is simple, fair, modern, accessible, cost effective and fit for purpose for those who use it (whether professional practitioners, business users or the public). The recommendations of the Law Commission are a matter for Commissioners alone.

3. Statement of independence and classification

- 3.1 The Law Commission is independent of government. For the purposes of administration and governance, it is classified by Cabinet Office as an advisory non-departmental public body.

Purposes, aims and duties

4. Purposes

- 4.1 The Law Commission has been established under the Law Commissions Act 1965 (the 1965 Act). Its statutory duty is to promote the reform of the law of England and Wales, as set out in section 1 of the 1965 Act.

5. Powers and duties

- 5.1 The Law Commission's powers and functions stem from sections 1 and 3 of the 1965 Act. Its primary statutory function is to review areas of the law and make recommendations for change. Its responsibilities with respect to the Lord Chancellor, and other government departments, in undertaking and reporting on programmes of review are set out in the 1965 Act.
- 5.2 The Law Commission has a direct relationship with Parliament through:
- maintaining contacts with parliamentarians and committee chairs to discuss matters relating to its functions and its projects
 - submitting and giving evidence from time to time on matters relating to its functions or its projects
 - special parliamentary legislative procedures for Law Commission bills, consolidation bills and statute law (repeals) bills

6. Aims

- 6.1 The Law Commission will set out its strategic aims in an annual business plan. The plan will include key targets and milestones for the year. The Law Commission will publish this plan on its website and separately make it available to staff.

7. Governance and accountability

- 7.1 The Law Commission shall operate corporate governance arrangements that, so far as practicable and in the light of the other provisions of this Framework Document or as otherwise may be mutually agreed, accord with good corporate governance practice and applicable regulatory requirements and expectations.

- 7.2 In particular (but without limitation), the Law Commission should:
- comply with the principles and provisions of the Corporate Governance in Central Government Departments Code of Good Practice (as amended and updated from time to time) to the extent appropriate and in line with its statutory duties or specify and explain any non-compliance in its annual report
 - comply with MPM
 - in line with MPM, have regard to the relevant functional standards as appropriate and in particular those concerning finance, commercial, security and counter fraud¹
 - take into account the codes of good practice and guidance set out in Annex A of this Framework Document, as they apply to arm's length bodies
- 7.3 To the extent that the Law Commission does intend to materially depart from these requirements, the PAO should be notified in advance and their agreement sought to this approach.
- 7.4 The senior officers accountable for managing each function in the Law Commission are accountable to the Law Commission Chief Executive for:
- the delivery of the Law Commission business plan objectives relevant to the function and the direction and control of associated resources
 - the quality and value for money of the service provision
 - ensuring the Law Commission adopts the relevant function's policies, controls and standards, so far as consistent with the other provisions of this Framework Document
- 7.5 As an embedded and integral part of the governance and performance management of the Law Commission, the senior officers accountable for managing each function in the Law Commission shall agree a proportionate basis for defining the scope of services, service levels, appropriate milestones and performance criteria. There should be routine reporting on compliance with defined standards and requirements, the resources deployed and costs, and any gaps in capacity and capabilities.
- 7.6 The senior officers accountable for managing each function in the Law Commission are accountable to the respective MOJ function leads for:
- providing assurance over compliance with functional standards, so far as consistent with the other provisions of this Framework Document
 - implementing consistent policies, systems, processes and capabilities that support and promote interoperability and efficiency
 - supporting the ongoing development of the function

¹ www.gov.uk/government/collections/functional-standards

- 7.7 The senior officers accountable for managing each function in the Law Commission shall provide the MOJ function leads with such information about their operations, performance and capabilities as may reasonably be required. In the event of any significant concerns being identified, the MOJ function lead will draw these to the attention of the PAO.
- 7.8 The Law Commission Chief Executive will consult with and reflect the views of the MOJ function leads to inform the performance assessment of the function leads in the Law Commission in order to support their continuing personal and professional development.
- 7.9 MOJ may provide functional services to the Law Commission. The PAO may seek to change the precise nature of the delivery model for these functions during the lifetime of the framework document to support better delivery of the Law Commission objectives, more consistency, increased innovation and enhanced efficiency. Where significant change is proposed in the way functions are delivered, the Law Commission will be consulted. When considering the extent of the services that can be provided to the Law Commission, due regard will be given to its operational independence from government.

Roles of the department

8. The responsible minister

- 8.1 The Lord Chancellor will account for the Law Commission on all matters concerning the Law Commission in Parliament.
- 8.2 The Lord Chancellor's statutory powers in respect of the Law Commission are set out in sections 1 and 3 of the 1965 Act.
- 8.3 These include:
- appointing the Chair and other Commissioners
 - appointing the Chief Executive and other Commission staff
 - laying before Parliament programmes of law reform prepared by the Law Commission and approved by him or her
 - laying before Parliament the Law Commission's annual report
 - reporting to Parliament on an annual basis on the implementation of the Law Commission's proposals
- 8.4 Further, under the power conferred by section 3B of the 1965 Act, the Lord Chancellor and the Law Commission have agreed a statutory protocol governing how government departments and the Law Commission should work together on law reform projects (the protocol). The Lord Chancellor and the Law Commission will from time to time review the protocol and may agree to revise it. This protocol, and any revisions to it are laid before Parliament, and published on the Law Commission website.²
- 8.5 Through the exercise of their powers of appointment to the Law Commission, the Lord Chancellor will act in accordance with the Governance Code on Public Appointments, as and where applicable.³

Ministerial meetings

- 8.6 Current practice is that a minister within MOJ will have responsibility for the Law Commission in his or her portfolio and will, unless other arrangements have been agreed, meet the Chairman and Chief Executive at least twice a year to discuss

² www.lawcom.gov.uk/document/protocol-between-the-lord-chancellor-on-behalf-of-the-government-and-the-law-commission

³ www.gov.uk/government/publications/governance-code-for-public-appointments

current projects, implementation of Law Commission proposals and any other relevant issues.

- 8.7 Ministers within MOJ and other government departments will meet with the Commissioners, Chief Executive or other representatives of the Law Commission to discuss specific projects or other issues linked to their ministerial responsibilities.

9. The Principal Accounting Officer

- 9.1 The PAO is the Permanent Secretary of MOJ. The responsibilities of the PAO are set out in Chapter 3 of MPM. The PAO is also the Accounting Officer for the Law Commission.
- 9.2 The PAO is accountable to Parliament for the issue of any grant-in-aid to the Law Commission. The PAO may delegate the exercise of their responsibilities to an appropriate senior official within the department to act as Senior Sponsor to the Law Commission. Where these responsibilities are delegated to a Senior Sponsor, the PAO does so based on the continuing assurances provided by the Senior Sponsor, supported by the policy sponsorship team, the Public Bodies Centre of Expertise and MOJ functions (where applicable).
- 9.3 The PAO is also responsible, supported by the Senior Sponsor and policy sponsorship team, for advising the responsible minister on:
- an appropriate framework of objectives and targets for the Law Commission in the light of the government's wider strategic aims and priorities
 - how well the Law Commission is achieving its strategic objectives and whether it is delivering value for money
 - the exercise of the minister's statutory responsibilities concerning the Law Commission as outlined above
- 9.4 The PAO, supported by the Senior Sponsor, the Public Bodies Centre of Expertise team (in collaboration with the MOJ policy sponsorship team) and MOJ's functions, is also responsible for ensuring arrangements are in place in order to:
- monitor the Law Commission's activities and performance
 - address significant problems in the Law Commission, making such interventions as are judged necessary
 - periodically and at such frequency as is proportionate to the level of risk carry out an assessment of the risks both to the department and the Law Commission's objectives and activities in line with the wider departmental risk assessment process
 - hold an annual discussion with the Chairman by a senior official in MOJ on the performance of the Law Commission against its business objectives

- inform the Law Commission of relevant government policy in a timely manner
- bring ministerial or departmental concerns about the governance and running of the Law Commission to the full Law Commission Board and, as appropriate, to the departmental Board requiring explanations and assurances that appropriate action has been taken

10. The role of the sponsorship team

- 10.1 The Senior Sponsor, supported by the Public Bodies Centre of Expertise, the policy sponsorship team in MOJ and the department's functions (where applicable), is the primary contact for the Law Commission. The responsible senior civil servant for supporting this sponsorship relationship is the Head of the Public Bodies Centre of Expertise. The Senior Sponsor is the main source of advice to the responsible minister on the discharge of his or her responsibilities in respect of the Law Commission. They also support the PAO on their responsibilities towards the Law Commission. This sponsorship engagement will be guided by the principles set out in the Cabinet Office Code of Good Practice: Partnerships between Departments and Arm's Length Bodies.⁴
- 10.2 Officials of the Public Bodies Centre of Expertise in MOJ will liaise regularly with Law Commission officials to review performance against plans, achievement against targets, and expenditure against its budget allocations.
- 10.3 Policy sponsorship of the Law Commission is led by MOJ's Criminal Courts and Criminal Law Policy Directorate. They will support the PAO and the Senior Sponsor to advise the responsible minister on the desired policy outcomes and monitoring whether these are being delivered. The policy sponsorship team will report on policy developments of the Law Commission to senior MOJ officials and ministers. They will also liaise with Law Commission officials to explain wider policy developments that might have an impact on the Law Commission.
- 10.4 The Public Bodies Centre of Expertise and International, Criminal Courts and Criminal Law Policy Directorate will work closely together to ensure that the Law Commission effectively carries out its functions under the 1965 Act and co-operates with MOJ in doing so.

⁴ www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice

11. Resolution of disputes between the Law Commission and MOJ

- 11.1 Any disputes between MOJ and the Law Commission will be resolved in as timely a manner as possible. MOJ and the Law Commission will seek to resolve any disputes through an informal process in the first instance. If this is not possible, then a formal process, overseen by the Senior Sponsor, will be used to resolve the issue. Failing this, the Senior Sponsor may then choose to ask the Permanent Secretary, as the PAO, to nominate a non-executive member of the MOJ Board to review the dispute, mediate with both sides and reach an outcome, in consultation with the responsible minister.
- 11.2 The above arrangement shall not prejudice the overall independence of the Law Commission from government, in particular with regard to conducting reviews and producing recommendations.

12. Freedom of information requests

- 12.1 Where a request for information is received by either party under the Freedom of Information Act 2000, or the Data Protection Act 1998 or 2018, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

13. Reporting on legal risk and litigation

- 13.1 The Law Commission shall provide a quarterly update to the PAO on the existence of any active litigation and any threatened or reasonably anticipated litigation. The parties acknowledge the importance of ensuring that legal risks are communicated appropriately to the PAO in a timely manner.
- 13.2 In the event of any substantial piece of litigation involving the Law Commission, the parties will agree a litigation protocol which will include specific provisions to ensure appropriate and timely reporting on the status of the litigation and the protection of legally privileged information transmitted to the Senior Sponsor to facilitate this. Until such time as a protocol is agreed, the parties will ensure that:
- material developments in the litigation are communicated to the Senior Sponsor in an appropriate and timely manner
 - legally privileged documents and information are clearly marked as such
 - individual employees handling the legally privileged documents are familiar with principles to which they must adhere to protect legal privilege

- circulation of privileged information within government occurs only as necessary

Law Commission governance and structure

14. The Board

Composition of the Board

- 14.1 The Law Commission will have a Board in line with good standards of corporate governance and as set out in its establishing statute and in guidance as set out in Annex A. The role of the Board shall be to run the Law Commission and to deliver the objectives, in accordance with the purposes as set out above, its statutory, regulatory, common law duties and its responsibilities under this Framework Document. Detailed responsibilities of the Board shall be set out in the Board's terms of reference.
- 14.2 The Board will consist of all five Commissioners (including the Chair), the Chief Executive, up to three non-executive board members, the Head of Legal Services, Head of Corporate Services, and other invited members as per the Board terms of reference.

Appointments to the Board

- 14.3 The Chair and four other Commissioners are appointed by the Lord Chancellor, under section 1 of the 1965 Act. These appointments are full time roles, are regulated by the Commissioner for Public Appointments, and are required to comply with the Code of Practice for Ministerial Appointments to Public Bodies. The initial appointment of the Chair will normally be for a period of three years. Initial appointments of Commissioners would normally be for a period of five years.
- 14.4 Under section 4 of the 1965 Act, the remuneration and pensions of Commissioners other than the Chair will be determined by the Lord Chancellor with the approval of HM Treasury. The Chair will be subject to the remuneration and pensions arrangements for the senior judiciary. In practice, the Commissioners are members of the Civil Service Pension Scheme by analogy.
- 14.5 Up to three non-executive board members to the Law Commission will be appointed in accordance with Cabinet Office guidance on such appointments. They will be advisory and will provide support and constructive challenge to the Commissioners and Chief Executive.
- 14.6 The non-executive board members will adhere to the Cabinet Office Code of Conduct for Board Members, along with the terms set out in their appointment

letters and other policies put in place to ensure the effective management of the Law Commission.

- 14.7 All such appointments should reflect the diversity of the society in which we live, and should be made taking account of the need to appoint boards which include a balance of skills and backgrounds.

Duties of the Board

14.8 The Board is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of the Law Commission consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State
- providing effective leadership of the Law Commission within a framework of prudent and effective controls which enables risk to be assessed and managed
- ensuring the financial and human resources are in place for the Law Commission to meet its objectives
- reviewing management performance
- ensuring that the Board receives and reviews regular financial and management information concerning the management of the Law Commission
- ensuring that it is kept informed of any changes which are likely to impact on the strategic direction of the Law Commission or on the attainability of its targets, and determining the steps needed to deal with such changes and where appropriate, bringing such matters to the attention of the responsible minister and PAO via the executive team, sponsorship team or directly
- ensuring that any statutory or administrative requirements for the use of public funds are complied with, and that the Board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor department, and in accordance with any other conditions relating to the use of public funds
- ensuring that in reaching decisions, the Board takes into account guidance issued by the sponsor department
- ensuring that as part of the above compliance it is familiar with:
 - this Framework Document
 - any delegation letter issued to the Law Commission
 - any elements of any settlement letter issued to the sponsor department that is relevant to the operation of the Law Commission
 - any separate settlement letter that is issued to the Law Commission from the sponsor department

- the Memorandum of Understanding between the Law Commission and the Lord Chancellor (on behalf of the government): Law Commission Funding Model (September 2020) (the funding MoU)⁵
- ensuring that it has appropriate internal mechanisms for the monitoring, governance and external reporting regarding any conditions arising from the above documents and that the Chief Executive and the Law Commission as a whole act in accordance with their obligations under the above documents
- demonstrating high standards of corporate governance at all times

14.9 The Board should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The Law Commission does not operate a separate Audit and Risk Assurance Committee. The Board is expected to assure itself of the adequacy and effectiveness of the risk management framework and the operation of internal control with reporting, by exception, provided to the departmental Audit and Risk Assurance Committee to ensure assurance is provided on governance and risk management where required.

14.10 The Board should make a strategic choice about the style, shape and quality of risk management and should lead the assessment and management of opportunity and risk. The Board should ensure that effective arrangements are in place to provide assurance over the design and operation of risk management, governance and internal control in line with Management of Risk – Principles and Concepts (The Orange Book).

14.11 In addition, the Law Commission Board's terms of reference are to oversee and take any necessary decisions in the following areas:

- strategy – developing organisational strategy and performance objectives, including the business plan
- delivery and performance – ensuring delivery of key corporate commitments, objectives and milestones, and overseeing progress of projects, through effective review of the Board report
- Wales – providing oversight of the relationship with Welsh Government and stakeholders and ensuring that the Law Commission meets its obligations in relation to use of the Welsh language
- finance and risk – ensuring that policies are appropriate and effective, and providing steers to, and considering and approving recommendations from, the senior management team
- staffing – providing a focus on staffing issues, including organisational culture, the development and talent management of the Law Commission's staff, and promoting diversity at all levels of the organisation

⁵ <https://lawcom.gov.uk/corporate-document/financial-memorandum-of-understanding>

- profile and reputation – considering strategies to increase the profile of the Law Commission across government, Parliament, the public, other law commissions, internationally and with stakeholders

14.12 In line with the Law Commissions Act 1965, the Board, including the non-executive board members, does not have responsibility for the selection or conduct of law reform projects or the content of consultation papers and reports. This is the preserve of the five Commissioners with decisions made at peer review. The Board will not have responsibility for any other matter that falls within the independent remit of the Commissioners under the Law Commissions Act 1965.

15. The Chair's roles and responsibilities

- 15.1 The Chair is responsible for leading the Board in the delivery of its responsibilities. Such responsibility should be exercised in the light of their duties and responsibilities as set out in the Chair's contract of employment, any appointment letter, the statutory authority governing the Law Commission, this Framework Document and the documents and guidance referred to within this Framework Document.
- 15.2 Communications between the Law Commission's Board and the responsible minister should normally be through the Chair.
- 15.3 The Chair is bound by the Code of Conduct for Board Members of Public Bodies.⁶ This covers conduct in the role and includes the Nolan Principles of Public Life.⁷
- 15.4 In addition, the Chair is responsible for monitoring and engaging with appropriate governance arrangements to ensure the Law Commission's affairs are conducted with probity.
- 15.5 The Chair has the following leadership responsibilities:
- formulating the Board's strategy
 - ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the responsible minister or the department
 - promoting the efficient and effective use of staff and other resources
 - delivering high standards of regularity and propriety
 - representing the views of the Board to the general public

⁶ www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies

⁷ www.gov.uk/government/publications/the-7-principles-of-public-life

15.6 The Chair also has an obligation to ensure that:

- the Board and its members are reviewed and are working effectively, including ongoing assessment of the performance of individual board members with a formal annual evaluation and more in-depth assessments of the performance of individual board members when being considered for re-appointment
- in conducting assessments, that the view of relevant stakeholders including employees and the sponsorship team are sought and considered
- the Board has a balance of skills appropriate to directing the Law Commission's business, and that all directors including the Chair and Chief Executive continually update their skills, knowledge and familiarity with the Law Commission to fulfil their role both on the Board and committees – this will include but not be limited to skills and training in relation to financial management and reporting requirements, risk management and the requirements of Board membership within the public sector
- with the Chief Executive, board members are fully briefed on terms of appointment, duties, rights and responsibilities
- they, together with the other board members, receive appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice
- the responsible minister is advised of the Law Commission's needs when Board vacancies arise
- there is a Board Operating Framework in place setting out the role and responsibilities of the Board consistent with the Government Code of Good Practice for Corporate Governance
- there is a code of practice for board members in place, consistent with the Cabinet Office Code of Conduct for Board Members of Public Bodies

16. Individual board members' responsibilities

16.1 Individual board members should:

- comply at all times with the Code of Conduct for Board Members of Public Bodies, which covers conduct in the role and includes the Nolan Principles of Public Life as well as rules relating to the use of public funds and to conflicts of interest
- demonstrate adherence to the 12 Principles of Governance for all Public Body Non-Executive Directors as appropriate⁸

⁸ www.gov.uk/government/publications/public-bodies-non-executive-director-principles/12-principles-of-governance-for-all-public-body-needs

- 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 people 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 Law Commission
- ensure they are familiar with any applicable guidance on the role of public sector non-executive directors and boards that may be issued from time to time by the Cabinet Office, HM Treasury or wider government

17. The Chief Executive

Appointment

17.1 The Chief Executive of the Law Commission is appointed by MOJ, on behalf of the Lord Chancellor under section 5(1) of the 1965 Act. The Chief Executive will be appointed on the basis of fair and open competition, per the terms outlined in the Civil Service Commission's Recruitment Principles.⁹

Responsibilities of the Chief Executive as budget holder

17.2 The Chief Executive as budget holder is personally responsible for safeguarding the public funds for which they have charge, for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds, and for the day-to-day operations and management of the Law Commission. In addition, they should ensure that the Law Commission 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 MPM. These responsibilities include the below and those that are set in the budget holder appointment letter issued by the PAO.

17.3 To the extent that the Law Commission does intend to materially depart from these requirements, the PAO should be notified in advance and their agreement sought to this approach.

Responsibilities to Parliament and the public

17.4 Responsibilities to Parliament and the public include:

- ensuring that effective procedures for handling complaints about the Law Commission in accordance with the Parliamentary and Health Service Ombudsman's Principles of Good Complaint Handling are established and made widely known within the Law Commission and published on the Law Commission's website

⁹ <https://civilservicecommission.independent.gov.uk/recruitment/recruitment-principles>

- acting in accordance with the terms of MPM and other instructions and guidance issued from time to time by the department, HM Treasury and the Cabinet Office
- ensuring that as part of the above compliance they are familiar with and act in accordance with:
 - any governing legislation
 - this Framework Document
 - any delegation letter issued to the Law Commission
 - any elements of any settlement letter issued to the sponsor department that is relevant to the operation of the Law Commission
 - any separate settlement letter that is issued to the Law Commission from the sponsor department
- ensuring they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding non-compliance with any conditions arising from the above documents

Responsibilities to MOJ

17.5 Responsibilities to MOJ include:

- establishing, in agreement with the department, the Law Commission's corporate and business plans in the light of the department's wider strategic aims and agreed priorities
- informing the department of progress in helping to achieve agreed objectives and in demonstrating how resources are being used to achieve those objectives
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the department, that the department 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 department in a timely fashion

Responsibilities to the Board

17.6 The Chief Executive is responsible for:

- working with the Chair to advise the Board on the discharge of the Law Commission's responsibilities as set out in this Framework Document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time
- advising the Board on the Law Commission'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

Managing conflicts

- 17.7 The Chief Executive should follow the advice and direction of the Board, except in very exceptional circumstances with a clear cut and transparent rationale for not doing so.
- 17.8 If the Board, or its Chair, 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, the Chief Executive in their role as budget holder should reject that course of action and ensure that the Board has a full opportunity to discuss the rationale for that rejection.
- 17.9 Such conflicts should be brought to the attention of the PAO and the responsible minister as soon as possible.
- 17.10 Furthermore, and if agreed with the responsible minister, the budget holder must write a letter of justification to the Chair of the Law Commission Board setting out the rationale for not following the advice and recommendation of the Board and copy that letter to the Treasury Officer of Accounts.
- 17.11 If the responsible minister agrees with the proposed course of action of the Board, it may be appropriate for the minister to direct the budget holder in the manner as set out in MPM paragraph 3.6.6 onwards.

Management and financial responsibilities and controls

18. Delegated authority

- 18.1 The Law Commission's delegated authorities are set out in the delegation letter. This delegation letter may be updated and superseded by later versions which may be issued by MOJ, in agreement with HM Treasury. The Law Commission's budget is delegated to it through its Senior Sponsor.
- 18.2 In line with MPM Annex 2.2, these delegations will be reviewed on an annual basis.
- 18.3 In addition, the detailed funding model for the Law Commission is set out in the funding MoU, agreed between MOJ and the Law Commission in September 2020. The Law Commission's expenditure, and relationship with MOJ and other government departments with respect to its budget and expenditure, should be carried out per the principles established therein, and in any subsequent revision to that document.¹⁰
- 18.4 At all times, the Law Commission shall uphold the principles and duties set out in MPM and it is the responsibility of the Law Commission budget holder to ensure compliance is maintained. If the budget holder is intending to pursue a course of action that might conflict with those duties, before proceeding they should consult with the Senior Sponsor who will, where appropriate, seek PAO and HM Treasury's prior written approval before:
- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the Law Commission's annual budget as approved by the department
 - 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 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
 - carrying out policies that go against the principles, rules, guidance and advice in MPM

¹⁰ <https://lawcom.gov.uk/corporate-document/financial-memorandum-of-understanding>

18.5 Any departures from the funding and operating model set out in the funding MoU must first be agreed by the Lord Chancellor and Chair of the Law Commission.

19. Spending authority

19.1 Once the budget has been approved by MOJ, and subject to the arrangements set out in the funding MoU, the Law Commission shall have authority to incur expenditure approved in the budget without further reference to the sponsor department, on the following conditions:

- the Law Commission shall comply with the delegations set out in the delegation letter, which shall not be altered without the prior agreement of MOJ and as agreed by HM Treasury and Cabinet Office as appropriate
- the Law Commission shall comply with MPM regarding novel, contentious or repercussive proposals
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed
- the Law Commission shall provide MOJ with such information about its operations, performance, individual projects or other expenditure as the sponsor department may reasonably require, including as set out in the funding MoU

20. Procurement

20.1 The Law Commission shall ensure that it operates within the delegated authorities set out in the delegation letter(s), which will include its delegated commercial authority as well as its spending authority to incur expenditure approved in the budget.

20.2 The Law Commission shall ensure that its procurement policies are aligned with and comply with any relevant UK Procurement Regulations, government policies and procedures or other international procurement rules.

20.3 The Law Commission shall establish its procurement policies and document these in a Procurement Policy and Procedures Manual.

20.4 In procurement cases where the Law Commission is likely to exceed its delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the Senior Sponsor, via MOJ's sponsorship team.

- 20.5 Goods, services and works should be acquired by competition. Proposals to let single-tender or restricted contracts shall be limited and exceptional, compliant with the UK Procurement Regulations and a quarterly report explaining those exceptions should be sent to the MOJ Chief Commercial Officer.
- 20.6 Procurement by the Law Commission of works, equipment, goods and services shall be based on a full option appraisal and value for money, i.e. the optimum combination and whole life costs and quality (fitness for purpose).
- 20.7 The Law Commission shall:
- engage fully with MOJ and government-wide procurement initiatives that seek to achieve value for money from collaborative projects
 - comply with all relevant procurement policy notes issued by Cabinet Office
 - co-operate fully with initiatives to improve the availability of procurement data to facilitate the achievement of value for money
- 20.8 The Law Commission shall comply with the commercial standards and grants standards. These standards apply to the planning, delivery and management of government commercial activity, including management of grants in all departments and arm's length bodies regardless of commercial approach used. They form part of a suite of functional standards that set expectations for management within government.¹¹

21. Risk management

- 21.1 The Law Commission shall ensure that the risks 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 HM Treasury guidance in Management of Risk – Principles and Concepts (The Orange Book).

22. Fraud, bribery and corruption

- 22.1 The Law Commission should adopt and implement policies and practices to safeguard itself against fraud, bribery and corruption. This includes staff fraud and theft.
- 22.2 The Law Commission should act in line with guidance as issued by the Counter Fraud Function and in compliance with the procedures and considerations as set

¹¹ www.gov.uk/government/publications/commercial-operating-standards-for-government and www.gov.uk/government/publications/grants-standards

out in MPM Annex 4.9 and the Counter Fraud Functional Standard.¹² It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter a contract, outside of the work entered into on behalf of other government departments, the arrangements for which are set out in the funding MoU.

- 22.3 The Law Commission should keep records of and prepare and forward to the department an annual report on fraud, bribery and corruption suffered by the Law Commission and notify the sponsor department of any unusual or major incidents as soon as possible. The Law Commission should also report detected loss from fraud, bribery, corruption and error, alongside associated recoveries and prevented losses, to the MOJ Counter Fraud Centre of Expertise in line with the agreed government definitions as set out in the Counter Fraud Functional Standard.

23. Staff

Broad responsibilities for staff

- 23.1 Within the arrangements approved by the Lord Chancellor and HM Treasury, the Law Commission will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:
- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued, appointment and advancement is based on merit, and there is no discrimination against employees with protected characteristics under the Equality Act 2010
 - the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness
 - the performance of its staff at all levels is satisfactorily appraised and the Law Commission's performance measurement systems are reviewed from time to time
 - its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Law Commission's objectives
 - proper consultation with staff takes place on key issues affecting them
 - adequate grievance and disciplinary procedures are in place
 - whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place

¹² www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud

Staff costs

23.2 Subject to its delegated authorities, the Law Commission shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

Pay and conditions of service

23.3 The Law Commission's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by MOJ and HM Treasury. The Law Commission has no delegated power to amend these terms and conditions.

23.4 Staff are eligible to join the Civil Service Pension Scheme, alpha, with the alternative to join the partnership scheme, which is a defined contribution scheme and also known as a money purchase pension, provided by a third party provider, Legal and General. Staff are able to opt out of the pension scheme if they wish. However, under automatic enrolment legislation, departments must re-enrol all employees and workers who are not currently in a pension scheme every three years from their initial starting date.

23.5 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the staff and to any other party entitled to payment in respect of travel expenses or other allowances. Payment shall be made in accordance with the Civil Service Management Code and the annual Civil Service Pay Remit Guidance, except where prior approval has been given by the department to vary such rates.^{13, 14}

23.6 Staff terms and conditions should be set out in relevant sections of the MOJ intranet.

23.7 The Law Commission shall abide by public sector pay controls, including the relevant approvals process dependent on the organisation's classification, as detailed in the senior pay guidance and the public sector pay and terms guidance.^{15, 16}

23.8 The travel expenses of board members shall be tied to the rates allowed to senior staff of the Law Commission or MOJ rates (whichever is applicable). Reasonable actual costs shall be reimbursed.

¹³ www.gov.uk/government/publications/civil-servants-terms-and-conditions

¹⁴ www.gov.uk/government/publications/civil-service-pay-remit-guidance-202122

¹⁵ www.gov.uk/government/publications/senior-civil-service-pay-and-reward

¹⁶ www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note

Pensions, redundancy and compensation

- 23.9 Compensation scheme rules and pension scheme rules should reflect legislative and HM Treasury guidance requirements regarding exit payments.
- 23.10 Law Commission staff are eligible for the Civil Service Pension Scheme. Staff may opt out of the occupational pension scheme provided by the Law Commission, but employers' contributions to any personal pension arrangement, including stakeholder pensions, shall normally be limited to the national insurance rebate level.
- 23.11 Any proposal by the Law Commission to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of MOJ. Proposals on severance must comply with the rules in Chapter 4 of MPM.

Business plans, financial reporting and management information

24. Law Reform Programme and business plan

- 24.1 Under the Law Commissions Act 1965, the Law Commission is required to submit programmes of law reform to the Lord Chancellor. Since then, every three or four years the Commission has set out the areas it intends to work on for the next few years.
- 24.2 The Law Commission shall submit annually to the Public Bodies Centre of Expertise and the policy sponsorship team in MOJ a business plan covering the year ahead, which will be published on the Law Commission's website. The business plan shall reflect the Law Commission's statutory duties and, within those duties, the priorities set from time to time by the Lord Chancellor (including decisions taken on policy and resources in the light of wider public expenditure decisions). The plan shall demonstrate how the Law Commission is progressing with the current Law Reform Programme and how this contributes to the achievement of MOJ's medium-term plan and priorities and aligned performance metrics and milestones.
- 24.3 The business plan shall be updated to include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the department. Subject to any commercial considerations, the corporate and business plans should be published by the Law Commission on its website and separately be made available to staff.
- 24.4 The following key matters should be included in the plans:
- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives
 - key non-financial performance targets
 - a review of performance in the preceding financial year, together with comparable outturns for the previous years, and an estimate of performance in the current year
 - alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast
 - other matters as agreed between MOJ and the Law Commission

25. Budgeting procedures

- 25.1 Each year, MOJ, via finance business partners, will send to the Law Commission a formal statement of the annual budgetary provision allocated by the department. This shall be agreed in accordance with the departmental allocations processes and the funding MoU agreed with the Lord Chancellor in September 2020.
- 25.2 The detailed arrangements for the allocation of the budget, including the basis on which budgetary decisions shall be made, are set out in the funding MoU. Any proposed reduction (in real terms or inflationary) must be discussed with the Lord Chancellor and Chair of the Law Commission.
- 25.3 The approved annual business plan will take account both of approved funding provision and any forecast receipts and will include a budget of estimated payments and receipts together with a profile of expected expenditure. These elements form part of the approved business plan for the year in question.

26. Grant-in-aid and any ring-fenced grants

- 26.1 Any grant-in-aid provided by the department for the year in question will be voted in the department's Supply Estimate and derive from the monies voted to MOJ by Parliament, in accordance with section 5 of the 1965 Act.
- 26.2 The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The Law Commission will comply with the general principle that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the Law Commission. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, MOJ will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.
- 26.3 Per the funding MoU, MOJ may provide additional funding for programmes undertaken by the Law Commission on behalf of another government department, should they be unable to meet the cost. As set out in the funding MoU, this would follow tripartite discussions between the Law Commission, MOJ, and the other government department. The Law Commission would provide evidence that this funding was used for the purposes authorised by the department.

27. Annual report

- 27.1 The Law Commission's Board must publish an annual report of its activities. A draft of the report should be submitted to the department at least four weeks before the proposed publication date.
- 27.2 The annual report must outline main activities and performance during the previous financial year and set out in summary form forward plans.
- 27.3 The report shall be laid in Parliament and made available on the Law Commission's website.

28. Reporting performance to the department

- 28.1 The Law Commission 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.
- 28.2 The Law Commission shall inform MOJ of any changes that make achievement of objectives and fulfilment of agreed projects and programmes more or less difficult. It shall report financial and non-financial performance, including progress on agreed project and programmes and the achievement of key objectives regularly, including in twice-yearly business assurance meetings with the partnerships team. Business assurance meetings shall be chaired by the Head of the Public Bodies Centre of Expertise (or in exceptional circumstances by their deputy) and attended by the Chief Executive of the Law Commission, policy sponsors and others as appropriate where the Law Commission's performance is formally reviewed.
- 28.3 The PAO will meet the Chief Executive at least once a year.

29. Communications

- 29.1 The Law Commission retains independent responsibility for the management and performance of communication functions including relations with other organisations, internal communications and organisation-specific external campaigns. Any external campaigns will adhere to applicable Cabinet Office guidance on lobbying and communications.

29.2 The MOJ Communications Directorate and the Law Commission communications team will share plans and, where relevant, announcements as far in advance as possible.

29.3 The MOJ Communications Directorate will provide professional communication advice and services such as web support, design, print, video and evaluation services to the Law Commission communications team while ensuring the independence and integrity of the Law Commission.

30. Information sharing

30.1 MOJ has the right of access to all Law Commission records and personnel for any purpose including, for example, sponsorship audits and operational investigations, with the exception of data pertaining to independent law reform work.

30.2 The Law Commission shall provide MOJ with such information about its operations, performance, individual projects or other expenditure as MOJ may reasonably require.

30.3 MOJ and HM Treasury may request the sharing of data held by the Law Commission in such a manner as set out in central guidance except insofar as it is prohibited by law. This may include requiring the appointment of a senior official to be responsible for the data sharing relationship.

30.4 As a minimum, the Law Commission shall provide, if requested, MOJ with information that will enable the department satisfactorily to monitor:

- the Law Commission's cash management
- its draw-down of grant-in-aid
- forecast outturn by resource headings
- other data required for the Online System for Central Accounting and Reporting (OSCAR)
- data as required in respect of its compliance with any Cabinet Office controls pipelines or required in order to meet any condition as set out in any settlement letter

Reviews and winding up arrangements

31. Review of the Law Commission's status

- 31.1 The Law Commission will be reviewed in line with the Cabinet Office's guidance or as per Cabinet Office requirements. These principles aim to ensure public bodies remain fit for purpose, well governed and properly accountable for what they do.

32. Arrangements in the event that the Law Commission is wound up

- 32.1 The abolition of the Law Commission, changes to its functions, or major changes to its structure would require the repeal or amendment of the 1965 Act.

- 32.2 If the Law Commission were to be abolished, MOJ shall put in place arrangements to ensure its orderly winding up. In particular it should ensure that the assets and liabilities of the Law Commission 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 department shall:

- have regard to Cabinet Office guidance on winding up of arm's length bodies
- ensure that procedures are in place in the Law Commission 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 Law Commission's assets and liabilities
- ensure that arrangements are in place to prepare closing accounts and pass to the Comptroller and Auditor General for external audit and that, for non-Crown bodies, funds are in place to pay for such audits – the Comptroller and Auditor General will lay the final accounts in Parliament, together with his report on the accounts
- arrange for the most appropriate person to sign the closing accounts – if another arm's length body takes on the role, responsibilities, assets and liabilities, the succeeding Accounting Officer should sign the closing accounts, but if the department inherits the role, responsibilities, assets and liabilities, the sponsor department's Accounting Officer should sign

32.3 The Law Commission should also pass to MOJ details of any other forms of claw-back due to the Law Commission.

Annex A: Compliance with government-wide corporate guidance and instructions

The Law Commission shall comply with the following general guidance documents and instructions except in so far as they conflict with the Law Commission's independence in discharging its statutory functions.

- Appropriate adaptations of sections of the Corporate Governance in Central Government Departments: Code of Good Practice: www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017
- Managing Public Money: www.gov.uk/government/publications/managing-public-money
- Management of Risk: Principles and Concepts: www.gov.uk/government/publications/orange-book
- A guide to managing fraud for public bodies: www.gov.uk/government/publications/a-guide-to-managing-fraud-for-public-bodies
- Government Financial Reporting Manual (FReM): www.gov.uk/government/publications/government-financial-reporting-manual-2019-20
- Cabinet Office's policy on spending controls: www.gov.uk/government/collections/cabinet-office-controls
- Fees and Charges Guide, Chapter 6 of Managing Public Money
- Departmental Banking: A Manual for Government Departments, Annex 5.6 of Managing Public Money
- Relevant Dear Accounting Officer or budget holder letters
- Regularity, Propriety and Value for Money: paragraph 3.3.3 of Managing Public Money
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration: www.ombudsman.org.uk/about-us/our-principles/principles-good-administration
- Consolidation Officer Memorandum and relevant Dear Consolidation Officer letters
- Model Code for Staff of Executive Non-Departmental Public Bodies: A Guide for Departments, Chapter 5 Annex A: https://assets.publishing.service.gov.uk/media/633425cc8fa8f50695b8cfd/Public_Bodies_-_a_guide_for_departments_-_chapter_5.pdf
- Cabinet Office and other relevant guidance and instructions issued by HM Treasury in respect of whole of government accounts

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