



**Law  
Commission**  
Reforming the law



**Ministry  
of Justice**

## FRAMEWORK DOCUMENT

Ministry of Justice and the Law Commission for England  
and Wales



**Law  
Commission**  
Reforming the law



**Ministry  
of Justice**

# **Framework Document**

**Ministry of Justice and the  
Law Commission for England and Wales**

**Effective from July 2015**

© Crown copyright 2015

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at The Law Commission, 1st Floor, Tower, Post Point 1.52, 52 Queen Anne's Gate, London, SW1H 9AG

## **1. INTRODUCTION**

- 1.1. The Law Commission is a statutory body, created by the Law Commissions Act 1965 ("the 1965 Act"). It is an advisory Non Departmental Public Body sponsored by the Ministry of Justice (MoJ), and is independent of Government.
- 1.2. The Lord Chancellor is accountable to Parliament for the Law Commission and the Ministry of Justice (MoJ) is therefore its sponsoring department.
- 1.3. The MoJ will maintain a sponsorship team responsible for relations between the Law Commission and the department.
- 1.4. The Law Commission consists of a Chairman and four other Commissioners. They are supported in their work by a Chief Executive and staff who are civil servants.

### **Status of this document**

- 1.5. This document sets out the broad framework for the governance of the Law Commission and how the relationship with the MoJ, as sponsoring department, will operate.
- 1.6. This document is not legally binding.
- 1.7. The document is signed on behalf of the Lord Chancellor and by the Chairman of the Law Commission. Copies of the document and any subsequent amendments will be placed in the Libraries of both Houses of Parliament and on the Law Commission's website.
- 1.8. The document will normally be reviewed by the MoJ and the Law Commission every three years under arrangements between the Lord Chancellor and the Chairman, but may be reviewed at any other time if they so wish. Any amendments to this document must be agreed by both MoJ and the Law Commission.

## **2. FOUNDING LEGISLATION AND FUNCTIONS OF THE LAW COMMISSION**

### **Founding legislation and classification**

- 2.1. The Law Commission was established by the Law Commissions Act 1965 ("the 1965 Act"). Its statutory purpose is to promote the reform of the law of England and Wales.
- 2.2. 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.

## **Functions**

- 2.3. The functions of the Law Commission are described in section 3(1) of the 1965 Act.

## **Appointments and Staff**

- 2.4. Section 1(1) of the 1965 Act provides that the Law Commission consists of the Chairman and four other Commissioners appointed by the Lord Chancellor. These appointments are full time roles, are regulated by the Office of the Commissioner for Public Appointments (OCPA), and are required to comply with the OCPA Code of Practice for Ministerial Appointments to Public Bodies. The initial appointment of the Chairman will normally be for a period of three years. Initial appointments of Commissioners would normally be for a period of five years.
- 2.5. Under section 4 of the 1965 Act the remuneration and pensions of Commissioners other than the Chairman will be determined by the Lord Chancellor with the approval of the Treasury. The Lord Chancellor will lay in Parliament the salaries or remuneration of the Commissioners. The Chairman 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.
- 2.6. The Chairman will have an annual discussion with a senior official in the MoJ of the performance of the Law Commission against its business objectives.
- 2.7. The other four Commissioners will have an annual appraisal of their performance which will be undertaken by the Chairman.
- 2.8. The staff of the Law Commission are civil servants, appointed by the MoJ on behalf of the Lord Chancellor. The staff are headed by a Chief Executive, who is a member of the Senior Civil Service. The Chief Executive's line manager is a Senior Civil Servant in the MoJ.
- 2.9. In addition, a number of parliamentary counsel are seconded or loaned to the Law Commission to work on draft Bills to be annexed to law reform reports, and on consolidation Bills.

## **3. GOVERNANCE AND ACCOUNTABILITY**

- 3.1. The Commissioners are responsible for the discharge of the functions of the Law Commission and as such may organise themselves as they see fit.
- 3.2. At present the Commissioners operate formally through two types of meeting. One of these meetings involves the discussion of law reform proposals. The other focuses on strategic issues.

- 3.3. The Chief Executive supports the Commissioners by advising them on the strategy and performance of the Law Commission and ensuring that the organisation has the capacity, capability and resources to deliver its functions.
- 3.4. In addition, the Chief Executive is the budget holder for the Law Commission and is accountable to the Principal Accounting Officer of the MoJ (the Permanent Secretary), through the relevant Director General responsible for its sponsorship, for the resources under his or her control. He or she is responsible for ensuring that taxpayers' money is used appropriately, and that the Law Commission delivers value for money and efficiency savings in line with Government requirements. The Chief Executive is personally responsible for ensuring that the Law Commission operates in full compliance with Managing Public Money and, as part of that, ensuring that the Law Commission is run on the basis of the standards, in terms of governance, decision making and financial management, that are set out in Managing Public Money. The MoJ's Principal Accounting Officer is ultimately responsible for accounting to Parliament for the Law Commission's expenditure.
- 3.5. Two Non-Executive Board Members (NEBMs) 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. It is expected that they will attend Strategic Issues Meetings.
- 3.6. The NEBMs 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.

## **Relationship with Parliament**

### ***The Lord Chancellor***

- 3.7. The Lord Chancellor is accountable to Parliament for the activities and performance of the Law Commission, this includes responding to Parliamentary Questions relating to the Law Commission.
- 3.8. The Lord Chancellor has a number of statutory duties and powers set out in the 1965 Act in relation to the Law Commission, including:
- appointing the Chairman 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;

- laying before Parliament proposals for law reform formulated by the Law Commission pursuant to such programmes, under section 3 of the 1965 Act;
- laying before Parliament the Law Commission's annual report; and
- reporting to Parliament on an annual basis on the implementation of the Law Commission's proposals.

3.9. The Law Commission also 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; and
- special parliamentary legislative procedures for Law Commission Bills, consolidation Bills and Statute Law (Repeals) Bills.

In addition, the Chief Executive may be required to give evidence to the Public Accounts Committee, normally with the Principal Accounting Officer, on the stewardship and use of public funds by the Law Commission.

3.10. 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.

### **Ministerial meetings**

3.11. The Lord Chancellor will, unless other arrangements have been agreed, meet the Chairman and Chief Executive at least twice a year to discuss the performance of the Law Commission, implementation of Law Commission proposals and any other relevant issues.

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

- 3.13. 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.

### ***Responsibilities of the Sponsorship Team***

- 3.14. The Sponsorship Team is the Law Commission's primary contact with the MoJ and acts as an advocate for it in the MoJ and other departments. The Sponsorship team also represent the views of the MoJ to the Law Commission and ensure that departmental policies relevant to advisory NDPBs are communicated to the Law Commission.
- 3.15. The Sponsorship Team monitors the Law Commission's activities but has no involvement in the exercise of the Commissioners' judgment in relation to the exercise of their functions.
- 3.16. The Head of the Sponsorship Team will meet with the Chief Executive on a regular basis, normally once a month, to review performance against plans and discuss current issues.

## **4. PLANNING, FINANCE AND REPORTING**

### **Business Plan and Performance Management**

- 4.1. The Law Commission will prepare 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.
- 4.2. The Law Commission will have an effective business planning and performance management framework to enable the monitoring of delivery against the business plan, identification and management of key risks, and escalation of any risks or issues to the Strategic Issues Meeting or appropriate forum. Should a risk be identified as having wider impact beyond the Law Commission, that will be escalated to the MoJ.
- 4.3. The Law Commission will provide appropriate and timely performance reporting to MoJ.

### **Funding model**

- 4.4. Provision is made in section 5 of the 1965 Act for the funding of the Law Commission. The current practice is that funding is provided principally through the MOJ from the monies voted to the MoJ by Parliament in accordance with section 5. The Commission relies on this money to fulfil its statutory purposes and discharge its functions. The Law Commission's budget is

delegated to it through the Director General responsible for the sponsorship team.

- 4.5. Where appropriate, the Law Commission may receive additional funding from Government departments or the Welsh Government to meet marginal costs of specific projects.
- 4.6. The Law Commission is required to operate in full compliance with Managing Public Money. As part of that, any novel or contentious issues which arise will be dealt with in accordance with Managing Public Money.

### **Annual report**

- 4.7. In accordance with section 3 of the 1965 Act the Law Commission will deliver an annual report of its activities after the end of each financial year to the Lord Chancellor, and the Lord Chancellor will lay the report before Parliament with such comments (if any) as he thinks fit. The Law Commission will make the report available on its website.

### **Corporate service provision**

- 4.8. A number of support functions may be provided to the Law Commission by the MoJ.
- 4.9. The MoJ and the Law Commission will discuss provision and management of corporate services as appropriate. In doing so, the functions of the Law Commission, its independence from Government and the need for services to be fit for purpose and cost effective will be taken into account in determining the extent of the take-up of services.

### **Access to records**

- 4.10. The MoJ will have a right of access to such of the Law Commission's records and personnel as may be required to discharge the obligations of the MoJ and the Principal Accounting Officer in relation to the Law Commission.

### **Security and information assurance**

- 4.11. The Law Commission is required to comply with Government standards for the management of security and information risk as set out in the Government's Security Policy Framework, Information Standard 6 (IS6).
- 4.12. The Law Commission is also required to maintain a Business Continuity Plan, in accordance with MoJ guidelines, which must be reviewed on at least an annual basis.

## **Occupational Health and Safety**

- 4.13. The Law Commission will operate according to MoJ Occupational Health and Safety (OHS) policies and documentation.

## **Freedom of Information and Data Protection**

- 4.14. The Law Commission will carry out its obligations under the Freedom of Information 2000 (FOI) Act, the Data Protection Act 1998 (DPA) and the Environmental Information Regulations.
- 4.15. The Chief Executive is the 'qualified' person for the purposes of section 36(1)(b) Freedom of Information Act 2000.
- 4.16. Additionally, the Law Commission will maintain a central record of FOI and DPA requests received and dealt with. The MoJ may require this information for inclusion in the Departmental statistics.

## **Communications**

- 4.17. 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.
- 4.18. The MoJ Communications Directorate and the Law Commission communications team will share plans and, where relevant, announcements as far in advance as possible.
- 4.19. 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 whilst ensuring the independence and integrity of the Law Commission.

## **Review of the Law Commission's status**

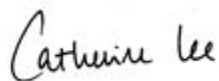
- 4.20. The Government retains the right to review the status of the Law Commission as appropriate and it is next due to be reviewed as part of the Triennial Review cycle.
- 4.21. The abolition of the Law Commission, changes to its functions, or major changes to its structure would require the repeal or amendment of the 1965 Act.
- 4.22. If the Law Commission were to be altered or abolished as a result of primary legislation, the MoJ would put in place arrangements to ensure the orderly conduct of this process.

## SIGNATURES

This Framework Document is agreed between:



Rt Hon Lord Justice Lloyd Jones  
Chairman of the Law Commission  
for England and Wales



Catherine Lee  
Director General, Law and Access  
to Justice Group

Date: July 2015