



Department  
for Business  
Innovation & Skills

LAND REGISTRATION RULES  
COMMITTEE

Triennial Review

MARCH 2015

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# Introduction

This document sets out the findings of the 2015 Triennial Review of the Land Registration Rule Committee (LRRC). It describes the purpose of Triennial Reviews, the process adopted for this review and presents findings based on the views from a range of stakeholders. The report draws on this evidence to make recommendations as to the future of the LRRC.

## Scope and Purpose of Triennial Reviews

The Cabinet Office has identified two principal aims for Triennial Reviews:

- to provide robust challenge to the continuing need for individual NDPBs – both their functions and their form (Stage One); and
- where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance (Stage Two).

## Stage One

This report covers Stage One of the review of Land Registration Rule Committee. The programme of departmental Triennial Reviews is agreed on a rolling basis with the Cabinet Office. The Cabinet Office agreed that BIS would carry out a Triennial Review of Land Registration Rule Committee during year 1 (2014- 2015) of the second Triennial programme. All reviews are to be conducted in line with the following principles:

- Proportionate:** not overly bureaucratic; appropriate for the size and nature of the NDPB.
- Timely:** completed quickly to minimise disruption and reduce uncertainty.
- Challenging:** robust and rigorous, evidencing the continuing need for functions and examining and evaluating a wide range of delivery options.
- Inclusive:** open and inclusive. Individual NDPBs must be engaged, key users and stakeholders should have the opportunity to contribute. Parliament should be informed about the commencement and conclusions.
- Transparent:** all reviews should be announced and reports should be published.
- Value for Money:** conducted to ensure value for money for the taxpayer.

## Process and Methodologies

### Cabinet Office guidance

This information is taken from the Cabinet Office guidance on Triennial Reviews. The first Stage of the review should identify and examine the key functions of the NDPB. It should assess how the functions contribute to the core business of the NDPB and the sponsor department and consider whether the functions are still needed. Where the department concludes that a particular function is still needed, the review should then examine how this function might best be delivered.

When assessing how functions should be delivered, the review should examine a wide range of delivery options. This should include whether the function can be delivered by local government, the voluntary or private sectors, or mutual. It should also include an examination of different central government delivery models, including whether the function can be delivered by the sponsoring department, by a new or existing Executive Agency or by another existing central government body. It is Government policy that NDPBs should only be set up, and remain in existence, where the NDPB model can be clearly evidenced as the most appropriate and cost-effective model for delivering the function in question. Reviews must evidence that functions have been assessed against a wide range of delivery options.

In many cases, some delivery options can be quickly rejected. However, for each function under consideration, the review should identify all viable delivery options and undertake a fuller assessment of these options. Where appropriate, this should include a cost and benefits analysis. If one of the delivery options is the NDPB option, this must also include an assessment against the government's 'three tests':

1. Is this a technical function (which needs external expertise to deliver)?
2. Is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions)?
3. Is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?

Based on these fuller assessments, the department can then make an informed decision on how the function should be delivered in the future:

- Abolish
- Move out of Central Government (e.g. to voluntary or private sector)
- Bring in-house (e.g. to an existing Executive Agency of BIS)
- Merge with another body
- Delivery by a new Executive Agency

- Continued delivery by an NDPB

### **The BIS approach**

Triennial reviews are consistent with the BIS commitment to review its POs. The reviews has been run as a project, governed by the Triennial Review Group (TRG) and supported by a Project Manager from the Finance Directorate. The TRG is comprised of BIS Directors.

A Challenge group provides robust challenge to the review and includes senior representation from BIS & the Cabinet Office and a peer reviewer who has previous experience of leading a Triennial Review.

### **Review of the Land Registration Rule Committee**

The Minister of State for Business and Enterprise and Energy, Matthew Hancock, announced the Triennial review of the LRRC in a written Ministerial statement on 11 December 2014. The review Team were drawn from across BIS in order to bring a measure of independence.

### **Approach to the Review**

Cabinet Office guidance states that reviews should be appropriate for the size and nature of the NDPB in question and should also offer value for money. Given the small scale of the LRRC which receives no funding from Government, a proportionate, but robust, review was carried out.

Consultation took place through interviews either face-to-face or over the telephone with current and former members (including Chairs) of the LRRC, Land Registry officials, as well as BIS and Ministry of Justice (which has policy responsibility for land law) officials. Wider consultation was not deemed necessary given the extremely technical nature of the LRRC functions, and the broad range of interests reflected in its composition.

The review team would like to thank all those who gave their time to providing views. A list of those who contributed is included in Annex A of this report.

## Functions and Form

The LRRC is an Advisory Non-Departmental Public Body. It was established by section 127 of the Land Registration Act 2002. A predecessor Committee was in existence which had been established by the 1925 Land Registration Act.

Its function is to advise on and assist in the making of Land Registration Rules and Land Registration Fee Orders. These can be new Rules or Fee Orders, as well as amendments to existing ones.

The Land Registry is responsible for drafting the Rules and Fee Orders, but the Secretary of State has to make them.

The Land Registry will publically consult on the principles for any new or amended Rules or Fee Orders. In light of that consultation it will then prepare drafts of the Rules or Fee Orders, as well as papers explaining the rationale.

These are then considered by the LRRC which will provide comments, for the purpose of advising and assisting the Lord Chancellor and Secretary of State as to the making of such legislation. The scope of the advice provided by the LRRC is not limited in statute, but it will take account of points such as the clarity of the drafting, the practical and operational impact of particular proposals, and the compatibility with:

- the Land Registration Act 2002 and rule making powers under this Act
- the European Convention on Human Rights
- any other existing legislation.

In practice, the function of advising and assisting the Lord Chancellor and Secretary of State is usually achieved by the Land Registry taking on board the comments of the LRRC before submitting the Rules and Fee Orders to the Secretary of State. Around the time of the 2002 Act which was introducing some major changes in land registration law, there were some instances where the Chair of the LRRC wrote directly to the Lord Chancellor. This is, however, the exception rather than the rule.

The LRRC membership is set out in the 2002 Act and is comprised as follows:

- a judge of the Chancery Division of the High Court nominated by the Lord Chief Justice, or a judicial office holder nominated by him after consulting the Lord Chancellor
- the Chief Land Registrar
- a person nominated by the General Council of the Bar
- a person nominated by the Council of the Law Society
- a person nominated by the Council of Mortgage Lenders

- a person nominated by the Council for Licensed Conveyancers
- a person nominated by the Royal Institution of Chartered Surveyors
- a person with experience in and knowledge of, consumer affairs nominated by the Lord Chancellor and
- any person nominated under section 127(3) of the Land Registration Act 2002.

These organisations represent the constituents most affected by Land Registration Rules and Fee Orders.

The Committee performs its roles as and when required. As such the workload and time commitment is variable within and between years, depending on the number and complexity of new or amended Rules being proposed. The LRRC estimates that it spends on average four days per year on its business. It also takes a practical approach to fulfilling its functions – where proposals are particularly controversial it will meet, where they are not it may operate by correspondence.

### Evidence received on LRRC successes

The expertise within the LRRC is uniquely placed to offer advice on the drafting, and the implications thereof, of Rules and Fee Orders. All stakeholders spoke of the value of the LRRC considering Rules and Fee Orders. Particularly prominent in stakeholders' views was the role the LRRC played during the period of major changes that accompanied the passing of the Land Registration Act 2002.

The detailed and technical nature of what the LRRC does means that success can be hard to articulate in a way that will resonate with those unfamiliar with the intricacies of this type of work.

However, one recent and specific example of LRRC success related to the most recent set of land registration rules, the Land Registration (Amendment) Rules 2011. These amended the Land Registration Rules 2003 to change the definition of “conveyancer” to make it consistent with the provisions of the Legal Services Act 2007. The latter Act prescribes who can carry out certain legal activities, including legal services related to land registration.

The LRRC suggested a re-structuring of the draft rules to make the new definition “more convenient and user friendly” and also suggested some re-wording (for example, replacing “has among their staff” with “employs”). These changes were incorporated in the final Rules made by the Minister. The Rules were subsequently considered but not commented on by the JCSI (Joint Committee on Statutory Instruments).

This impact of the LRRC was described to the Review Team as typical.

## Evidence received on the way functions are carried out

The unanimous view of stakeholders contacted by the review team was that the LRRC makes significant improvements to the drafting of Rules and Fee Orders. It does so from a legalistic as well as practical perspective, and in an efficient manner. It was noted by a number of those consulted that to buy in the expertise of the LRRC members at commercial rates would be very expensive, particularly in contrast to the cost-free advice that the LRRC currently provides.

### Is this a technical function and is it still required?

The role of the LRRC is extremely technical. All interviewees expressed this view. It looks at the drafting of Rules and Orders, and advises on improvements and changes that can be made to make them clearer or easier to operationalize.

It is important to distinguish the role that the LRRC plays from the role of public consultation. The LRRC offers specific and detailed advice on the precise drafting of Rules and Fee Orders. This is a specialist function relying on the extensive expertise of the members, which could not be achieved through public consultation.

The LRRC is comprised of experts who are subject to the Rules and Fee Orders they consider, and, as such, are best placed to advise on the drafting, and how the rules will work in practice.

The individual members are not only expert in their own right, but are drawn from the key representative organisations involved in land registration. Where it is necessary, Committee members can therefore seek and reflect views of their organisations, to contribute to debates within the LRRC.

There are in excess of 200 rules and 60 forms that underpin the system of land registration. Land registration is the cornerstone of the UK property market – it is how ownership of land is established and is necessary whenever someone wants to buy, sell or remortgage a property. Given the importance of the property market to the economy, getting the rules right around registration is essential. With over 26 million applications to the Land Registry in 2013/14, the systems needs to be understood, accurate and trusted by those who use and rely on it. The LRRC helps to ensure that is the case.

The system must evolve in line with wider changes. This includes, for example, changes brought about by other legislation, which the legal and practical expertise of the LRRC will be well-equipped to understand.

It must also evolve in line with changes in the way consumers and users are behaving, for example much greater use of technology – nearly 22 million of the 26 million applications in 2013/14 were electronic.

As such, the Rules and Fees must be kept under revision. The broad range of perspectives represented on the LRRC help to ensure that detail of the Rules and processes of the Land Registry take account of these wider changes.

Given that change is inevitable, the view of the Review Team is that the function is still required.



The ongoing requirement for the function is also clear given the cost-effective access to expertise and consequent improvements to Rules and Fee Orders.

### **Is this a function which needs to be, and be seen to be, delivered with absolute political impartiality independently of Ministers?**

The LRRC is established by the Land Registration Act 2002 section 127. This gives the LRRC the function of advising on and assisting in the making of Land Registration Rules and Land Registration Fee Orders.

The view of many stakeholders was that the function of the LRRC should be and should be seen to be delivered with political impartiality independent of Ministers. However, others found it hard to imagine how the nature of what the LRRC does could be subject to political interference, or why any such interference would be politically beneficial.

It was also not clear to a number of stakeholders why Ministerial independence was required, particularly when it was the Minister who ultimately made the Orders.

Consequently, some stakeholders were less sure that it was necessary for the function to be provided with political impartiality or independent of Ministers.

Having listened to the range of views, the Review Team does not consider it essential for the function to be carried out independently of Ministers.

## **Current structure of Land Registration Rule Committee**

BIS has a formal sponsorship relationship with the LRRC on behalf of the Secretary of State. However, the LRRC does not, in practice, interact directly with the Secretary of State in any meaningful way. Instead, as described above, the LRRC provides its advice directly to the Land Registry, who, in turn, take that advice on board before requesting the Secretary of State makes any Rules or Fee Orders. When requesting that the Secretary of State makes any Rules or Fee Orders, the Land Registry will flag to him the view of the LRRC on the specific drafting, and the way in which that view has been reflected.

The LRRC has virtually no costs. The administration and secretariat function, such as they are, for the LRRC is provided by the Land Registry. Members may claim expenses from the Land Registry, although in practice this is rare. BIS itself, despite being the formal sponsor of the LRRC, provides no budget for the LRRC.

Having determined that the LRRC functions are still required, there are several options which could be considered for the type of delivery model used. These are set out below.

## **Form of Land Registration Rule Committee**

The LRRC is an advisory non departmental public body, however, this review recognises that it does not fit particularly well with the advisory NDPB model described within the

Cabinet Office guidance<sup>1</sup>. The Cabinet Office is currently conducting a review of the administrative classification of public bodies<sup>2</sup> and so the question of LRRC's classification may need to be re-considered following outcome of that classification review.

The headings below set out an overview of the different possibilities for provision of the functions of LRRC and whether they are appropriate. The different models are those set out in the Cabinet Office guidance on Triennial Reviews.

The Review Team considered whether it was feasible and cost effective to bring the LRRC functions back to the Department. The level and range of expertise provided by the LRRC does not exist within the Department. The statutory basis of the LRRC currently obliges the named organisations to nominate representatives. To enable the LRRC to be brought within the Department would require amendment to the legislation, thus removing this requirement. The Department could seek to retain the services of the LRRC members, but that would require a contractual relationship which would in all likelihood also incur considerable additional cost to the taxpayer if the members charged commercial rates for their advice.

The Review Team also considered whether the functions could be delivered by another Executive Agency. The Land Registry itself, given its relationship with the LRRC, would be the strongest candidate to deliver the functions. The Review Team considered whether the Land Registry could simply create a Committee comprising the same or similar membership to the LRRC for the purposes of advising it on the relevant drafting.

The Review Team considered this option to be a less optimal solution than the current set up for the reasons set out below:

- The independence of the LRRC from the Land Registry is part of its value. It offers external challenge and expertise to the Land Registry.
- It is not guaranteed that the range of expertise currently represented on the LRRC would continue to contribute in the way that it is obliged to by the present format. This could result in the quality of the advice deteriorating.
- It could result in increased costs to the users of the Land Registry services. As outlined above, at present the organisations represented on the LRRC provide their expertise for free. Whilst it is of benefit to those organisations that the Rules and Fee Orders are drafted as well as possible, there is no guarantee that they would all continue to offer their input if a less formal Committee without statutory backing was convened by the Land Registry. In order to maintain the same quality of service, the Land Registry would be required to buy-in the expertise. The cost would then be passed on to customers.

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<sup>1</sup> See:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/80075/Categories\\_of\\_public\\_bodies\\_Dec12.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80075/Categories_of_public_bodies_Dec12.pdf)

<sup>2</sup> See toward the end of the page here: [www.gov.uk/public-bodies-reform](http://www.gov.uk/public-bodies-reform)

- The process of merging or abolishing the LRRC would result in a far greater cost to the tax payer than the current LRRC incurs.

The Review Team also considered whether another NDPB apart from the Land Registry could undertake the LRRC's functions. In particular, it considered the possibility of a centre of expertise model through merging the other Rule Committees with the LRRC. The Review Team concluded that each Rule Committee was specialist to its subject matter and that there would therefore be no value from seeking to merge them.

## Conclusions

Having considered the current functions of the Land Registration Rule Committee, the view and recommendation of the Review Team is that it should remain as an NDPB. It meets the Cabinet Office tests for qualification as a public body, in particular the highly technical nature of its role.

### **RECOMMENDATION 1**

*The Review Team recommends that the LRRC remains as an NDPB, though notes the current Cabinet Office review of classification that is underway.*

## Stage Two

This part of the report follows on from Stage One. In Stage One the Review Team recommended that the Land Registration Rule Committee continues with its current functions and in its current form, and that Stage Two of the Triennial Reviews should commence. The same principles apply to this Stage of the Review as those set out for Stage One, i.e. proportionality, timeliness, challenging, inclusivity and value for money.

### Cabinet Office Guidance

This information is taken from the Cabinet Office guidance. Where the outcome of the first stage of the review is that the NDPB will remain, the Department, working with the Chair and Chief Executive Officer (“the CEO”) of the NDPB concerned, should then review the control and governance arrangements in place to ensure that the public body is operating in line with recognised principles of good corporate governance. This includes requirements in openness, transparency and accountability.

Good corporate governance is central to the effective operation of all public bodies. As part of the review process, therefore, the governance arrangements in place should be reviewed. This should be led by the sponsoring Department, working closely with the Chair and CEO who will have a key responsibility for ensuring that strong and robust corporate governance arrangements are in place. As a minimum, the controls, processes and safeguards in place should be assessed against the principles and policies set out below. These reflect best practice in the public and private sectors and, in particular, draw from the principles and approach set out in the draft *Corporate Governance in Central Government Departments: Code of Good Practice*.

The Department and NDPB will need to identify as part of the review any areas of non-compliance with the principles and explain why an alternative approach has been adopted and how this approach contributes to good corporate governance – this is known as the “comply or explain” approach, the standard approach to corporate governance in the UK. Reasons for non-compliance might include the need for structures and systems to remain proportionate, commercial considerations or concerns about cost and value for money.

## The principles of good corporate governance

### Accountability

#### **Statutory Accountability**

The public body complies with all applicable statutes and regulations, and other relevant statements of best practice.

#### **Accountability for Public Money**

The Accounting Officer of the public body is personally responsible and accountable to Parliament for the use of public money by the body and for the stewardship of assets.

#### **Ministerial Accountability**

The Minister is ultimately accountable to Parliament and the public for the overall performance of the public body.

### Roles and Responsibilities

#### **Role of the Sponsoring Department**

The departmental board ensures that there are robust governance arrangements with the board of each arm's length body. These arrangements set out the terms of their relationships and explain how they will be put in place to promote high performance and safeguard propriety and regularity.

There is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the public body.

#### **Role of the Board**

The public body is led by an effective board which has collective responsibility for the overall performance and success of the body. The board provides strategic leadership, direction, support and guidance.

The board – and its committees – have an appropriate balance of skills, experience, independence and knowledge.

There is a clear division of roles and responsibilities between non-executive and executives. No one individual has unchallenged decision-making powers.

#### **Role of the Chair**

The Chair is responsible for leadership of the board and for ensuring its overall effectiveness.

#### **Role of Non-Executive Board Members**

As part of their role, non-executive board members provide independent and constructive challenge.

## Effective Financial Management

The public body has taken appropriate steps to ensure that effective systems of financial management and internal control are in place.

- *Annual reporting*
- *Internal Controls*
- *Audit Committee*
- *External Auditors*

## Communications

The public body is open, transparent, accountable and responsive.

- *Communications with Stakeholders*
- *Communications with the Public*
- *Marketing and PR*

## Conduct

The board and staff of the public body work to the highest personal and professional standards. They promote the values of the public body and of good governance through their conduct and behaviour.

- *Conduct and Behaviour*
- *Leadership*

## The BIS approach

### *Questionnaire*

BIS devised a questionnaire for Stage Two which could be used for all Triennial Reviews in the Department's programme. This required the Land Registration Rule Committee to complete the questionnaire in which it had to 'comply or explain' with each of the principles above.

Evidence was submitted by the LRRC to support its responses. It also had to rate itself on a four point RAG rating (Red, Amber/Red, Amber/Green, Green) for compliance with the areas above. BIS as sponsor had input into the questionnaire on the areas of Ministerial accountability and the role of the sponsoring department.

## Compliance with principles of good governance

As explained at page 11, the review recognises that the Land Registration Rule Committee does not fit particularly well with the advisory NDPB model described within the Cabinet Office guidance. Hence some of the principles of good corporate governance do not necessarily apply in their detail to the LRRC, given the form of LRRC that is determined by section 127 of the Land Registration Act 2002.

## Compliance

The questionnaire completed by the LRRC can be found in Annex B. A summary of compliance issues is set out below.

### Accountability

#### ***Statutory Accountability***

The LRRC complies with all the relevant statutory and regulatory requirements.

The nature of the organisation, as described in the Stage One assessment, means that some of the other areas of accountability do not apply in practice. The LRRC has provided explanations where it deviates from these requirements. The Review Team has considered these and is satisfied with them.

The LRRC has no budget and as such there is no specific oversight of any public monies.

Membership of the Committee is largely determined by the Land Registration Act 2002, with the majority of the members nominated by specified organisations. Those members are there as representatives of those organisations, as well as for their own individual expertise. Those appointments that are made by Ministers (notably, the consumer affairs representative) are made in line with the Code of Practice issued by the Commissioner for Public Appointments. The Chair is, by convention, the nominated High Court judge.

#### ***Ministerial Accountability***

There are no regular meetings between the Chair and Minister. In the view of both the LRRC and the Review Team, the very technical and irregular nature of the LRRC work, makes such meetings unnecessary.

Currently, Parliament is informed about the work of the LRRC through a section in the Land Registry's Annual Report. The Review Team considers this approach to be proportionate, although the LRRC could provide more detail on its activity during the course of the year in question.



## RECOMMENDATION 2

***The Review Team recommends that the Land Registration Rule Committee prepares a short (but more detailed than in recent years) annual summary of its activity for publication, to appear as part of the Land Registry Annual Report. This should continue to be proportionate to the LRRC's size and workload. It could, for instance, record the number of Rules or Fee Orders it considered, the number of meetings it had, and any change in membership.***

**Rating for Accountability: Green**

### Roles and Responsibilities

#### ***Role of the Sponsoring Department***

There is a sponsor team in BIS for the Land Registry which also acts as formal sponsor for the LRRC. However, given the nature of the LRRC, there is much more frequent interaction between the Land Registry itself and the LRRC than between the sponsor team and the LRRC. LRRC reports that any significant issues arising would be passed from the Land Registry to the BIS sponsor team. The Review Team has no reason to believe that any change is required to this arrangement.

As described elsewhere, the technical and irregular nature of the LRRC work does not make it appropriate, in the view of the Review Team, for the Departmental Board to scrutinise it.

#### ***Role of the Board***

The LRRC does not have a Board in the sense commonly understood. The majority of the members of the LRRC are nominated by organisations, specified in legislation, that have a particular interest and expertise in its work. This composition is designed to ensure that there is a broad range of knowledge, skills and perspectives. This includes the consumer affairs representative who plays an important role in ensuring the perspective of non-specialists is also taken into account. The Review Team is satisfied that this is appropriate.

However, the Review Team notes that some stakeholders felt the LRRC would be best-placed to continue to offer high quality advice if the members knew each other and their respective strengths and weaknesses.

## RECOMMENDATION 3

***The Review Team therefore recommends that the Land Registration Rule Committee meets face-to-face at least once a year to enable members to interact in person, to better understand each other's strengths and weaknesses, which should, in turn, help improve the debate it has and thus the scrutiny it provides.***

The LRRC reports that there is an induction process for the consumer affairs representative – the only member other than the High Court Judge that is not a representative of an organisation. The LRRC has suggested that it could provide some

general material for new members on expectations of how it operates, meetings, timings and frequency, and expenses. The Review Team agrees this would be a positive step.

## **RECOMMENDATION 4**

***The Review Team recommends that the Land Registration Rule Committee develops some basic induction material for new Committee members setting out expectations for how it operates, meetings and expenses. This should incorporate Recommendation 6, on the Cabinet Office Code of Conduct.***

### ***Role of the Chair***

As above, the role of the Chair is by convention taken by the High Court judge. Should any particular members of the LRRC not be performing their role satisfactorily, it would be for the Chair to discuss that with them and, potentially, the organisation they represent. The likelihood of such a situation arising in light of the LRRC work is slim. The Review Team is content that the existing arrangements are proportionate and appropriate to the LRRC.

**Rating for Roles and Responsibility: Green**

### **Effective Financial Management**

The LRRC has no budget, so this principle was not considered by the Review Team.

**Rating for Effective Financial Management: Not applicable**

### **Communications**

The LRRC has a publication scheme for Freedom of Information which is available online.

The Review Team is satisfied that public consultation is not within the remit of the LRRC given its purpose is to provide technical advice on the basis of the expertise of its members. Public consultation on Rules and Fee Orders would be undertaken by the Land Registry prior to seeking advice from the LRRC.

Currently the LRRC does not publish agendas or minutes of its meetings. It is not always the case, as the Review Team understands it, that minutes are taken. In part this is because the discussions are of such a technical nature. However, in the view of the Review Team, taking and publishing minutes is something that the LRRC should consider, in line with the Government's transparency agenda.

## RECOMMENDATION 5

***The Review Team recommends that the Land Registration Rule Committee should have minutes of its meetings and deliberations, whether these are done face-to-face, remotely, or via correspondence. The minutes could record the matter under consideration, those members who contributed, and a brief summary of the discussion and conclusions. These should be published, which would fit with the Government's transparency agenda.***

Rating for Communications: Green

### Conduct and Propriety

As representatives of professional organisations (except the consumer affairs representative), all LRRC members should already work to the highest personal and professional standards as appropriate to their profession. All such members have their own codes of conduct. However, there is no reason, in the Review Team's view, for members to not also be made aware of the Cabinet Office Code.

## RECOMMENDATION 6

***Each Land Registration Rule Committee member should be made aware of the Cabinet Office Code, and, unless it contradicts with the code of conduct for their particular profession, comply with it.***

As outlined previously, expenses are rarely claimed by any member of the LRRC. Despite this, rules do exist but are not published. The view of the Review Team is that there is no reason the rules should not be published, even if they rarely need to be followed.

## RECOMMENDATION 7

***The Land Registration Rule Committee should publish its rules for claiming expenses, and any such expenses that are claimed should also be published.***

Rating for Conduct and Propriety: Green

# Conclusions and Recommendations

The Land Registration Rule Committee is complying with the vast majority of the relevant governance and accountability requirements which are placed on them by statute, regulation, BIS and governmental guidelines or best practice.

## Recommendations

Although the Land Registration Rule Committee is complying with the majority of requirements from the assessment for Stage Two of the Triennial Review, there are some areas where some action could usefully be taken to improve compliance further. These are set out below.

### Recommendation 1:

*The Review Team recommends that the Land Registration Rule Committee remains as an NDPB, though notes the current Cabinet Office review of classification that is underway.*

### Recommendation 2:

*The Review Team recommends that the Land Registration Rule Committee prepares a short (but more detailed than in recent years) annual summary of its activity for publication, to appear as part of the Land Registry Annual Report. This should continue to be proportionate to the LRRC's size and workload. It could, for instance, record the number of Rules or Fee Orders it considered, the number of meetings it had, and any change in membership.*

### Recommendation 3:

*The Review Team therefore recommends that the Land Registration Rule Committee meets face-to-face at least once a year to enable members to interact in person, to better understand each other's strengths and weaknesses, which should, in turn, help improve the debate it has and thus the scrutiny it provides.*

### Recommendation 4:

*The Review Team recommends that the Land Registration Rule Committee develops some basic induction material for new Committee members setting out expectations for how it operates, meetings and expenses. This should incorporate Recommendation 6, on the Cabinet Office Code of Conduct.*

**Recommendation 5:**

*The Review Team recommends that the Land Registration Rule Committee should have minutes of its meetings and deliberations, whether these are done face-to-face, remotely, or via correspondence. The minutes could record the matter under consideration, those members who contributed, and a brief summary of the discussion and conclusions. These should be published, which would fit with the Government's transparency agenda.*

**Recommendation 6:**

*Each Land Registration Rule Committee member should be made aware of the Cabinet Office Code, and, unless it contradicts with the code of conduct for their particular profession, comply with it.*

**Recommendation 7:**

*The Land Registration Rule Committee should publish its rules for claiming expenses, and any such expenses that are claimed should also be published.*

# Annex A: List of Respondents

The Review Team would like to thank the following for their contributions to the Review:

- Mr Justice Morgan, Chair and Judge of the Chancery Division of the High Court, nominated by the Lord Chief Justice
- Sir William Blackburne, former Chair
- David J Powell, Royal Institution of Chartered Surveyors
- Rodney Stewart Smith, General Council of the Bar
- Kim Caley, Council of Licensed Conveyancers
- Jonathan Smithers, Council of the Law Society
- Ian Kirkaldy, Council of Mortgage Lenders
- Jenny Holt, Consumer Champion
- Paul Hughes, Ministry of Justice
- Mike Westcott-Rudd, Land Registry
- Alasdair Lewis, Land Registry
- Carol Gurajena, Secretary to the Land Registration Rule Committee
- James Pfeffer, BIS Sponsor

# Annex B: LRRC Self-Assessment of Governance compliance

The following is the LRRC and BIS sponsor team Stage Two self-assessment.

## ACCOUNTABILITY

The Minister is ultimately accountable to Parliament and the public for the overall performance, and continued existence, of the public body.

Detail of Requirement	Assessment
1. The Minister and sponsoring department should exercise appropriate scrutiny and oversight of the public body. This includes oversight of any public monies spent by, or on behalf of, the body.	Comply
2. Appointments to the board should be made in line with any statutory requirements and, where appropriate, with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments.	Explain
3. The Minister will normally appoint the Chair and all board members of the public body and be able to remove individuals whose performance or conduct is unsatisfactory.	Explain
4. The Minister should meet the Chair on a regular basis.	Explain
5. There should be a requirement to inform Parliament and the public of the work of the public body through publication of an annual report (or equivalent publication).	Explain
6. The public body must be compliant with Data Protection legislation.	Comply
7. The public body should be subject to the Public Records Acts 1958 and 1967.	Comply

Overall assessment of accountability	Green
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<i>Evidence of compliance or explanation for non-compliance</i>
1. Although in reality this is light touch as no significant public monies are spent (expenses of members only) and the LRRC has a very limited role, meeting as required, on average once or twice a year.
2. Membership is set out in the 2002 Land Registration Act. Most posts are nominated by the specified bodies, and they will have their own internal processes and accountabilities to regulate those appointments. The consumer affairs representative is a Ministerial appointment and that is made in accordance with the OCPA code. This approach reflects the limited, specialised and technical nature of the work.
3. The High Court judge nominated by the Lord Chief Justice (after consultation with the Lord Chancellor) in practice takes the chair.
4. Given the very limited role of the LRRC this would be disproportionate. LRRC provide their advice to Land Registry on proposed Land Registration Rules and Fee Orders and it is then reflected by LR in comprehensive advice to Ministers.
5. Given the technical role of the LRRC, this is unnecessary. The work of the LRRC is covered in the Land Registry Annual Report.
6. The LRRC operates to the Land Registry's standards using Land Registry staff.
7. The LRRC operates in the same way as Land Registry using Land Registry staff.

<b>Strengths identified</b>
<p>The LRRC provides a good forum to consult interested parties on a key function of the State – land registration rules and fee orders. As such its role is tightly defined, specialised, and limited in terms of the time and resource commitment (the minimal costs of support are provided by Land Registry from the revenues they raise). It will meet only when necessary – to consider proposed rules or fee orders. It is therefore a low cost means to provide a valuable service.</p>



**Areas for improvement and action planned**

None

### Role of the Sponsoring Department

*The departmental board ensures that there are appropriate governance arrangements in place with the public body.*

*The sponsor team within the department provides appropriate oversight and scrutiny of, and support and assistance to, the public body.*

Detail of Requirement	Assessment
1. The departmental board’s regular agenda should include scrutiny of the performance of the public body.	Explain
2. There should be a document in place which sets out clearly the terms of reference of the public body. It should be accessible and understood by the sponsoring department and by all board members. It should be regularly reviewed and updated.	Comply
3. There should be a dedicated sponsor team within the parent department. The role of the sponsor team should be clearly defined.	Explain
4. There should be regular and ongoing dialogue between the sponsoring department and the public body.	Comply
5. There should be an annual evaluation of the performance of the board and its committees – and of the Chair and individual board members	Explain

Overall assessment of the Sponsoring Team.	Green
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<b>Evidence of compliance or explanation for non-compliance</b>
1. BIS are the relevant body, but the reality is that LRRC support the Land Registry directly. Discussion at routine Board meetings would be disproportionate given the nature of LRRC's role.
2. The terms of reference of the LRRC are, in effect, set out in the Land Registration Act 2002.
3. The Land Registry sponsor team in BIS also provide the required level of central Government sponsorship (which given the nature of the LRRC as set out above is minimal). Land Registry itself has more direct engagement with LRRC.
4. Land Registry are represented on the LRRC by the Chief Land Registrar, who passes on any significant issues in routine contact with the BIS sponsorship team.
5. Not applicable. This reflects the limited and specialised nature of the work.

<b>Strengths identified</b>
<i>The sponsorship team exercise a light touch approach proportionate to the role and circumstances of LRRC.</i>

<b>Areas for improvement and action planned</b>
<i>None</i>

## Role of the Chair

*The Chair is responsible for leadership of the board and for ensuring its overall effectiveness.*

Detail of Requirement	Assessment
1. The board should be led by a non-executive Chair.	Explain
2. There should be a formal, rigorous and transparent process	Explain
3. The duties, role and responsibilities, terms of office and remuneration of the Chair should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements. The responsibilities of the Chair will normally include: <ul style="list-style-type: none"> <li>a. representing the public body in discussions with Ministers;</li> <li>b. advising the sponsoring Department and Ministers about board appointments and the performance of individual non-executive board members;</li> <li>c. ensuring that non-executive board members have a proper knowledge and understanding of their role and responsibilities. The Chair should ensure that new members undergo a proper induction process and is normally responsible for undertaking an annual assessment of non-executive board members' performance;</li> <li>d. ensuring that the board, in reaching decisions, takes proper account of guidance provided by the sponsoring department or Ministers;</li> <li>e. ensuring that the board carries out its business efficiently and effectively;</li> <li>f. representing the views of the board to the general public.</li> </ul>	Explain

Overall assessment of the role of the Chair	Green
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<b>Evidence of compliance or explanation for non-compliance</b>
1. LRRC is chaired in practice by a High Court judge appointed by the Lord Chief Justice as set out in statute. This reflects the nature of the role of LRRC.
2. The appointment is made under the provisions of s.127 of the Land Registration Act 2002.
3. Not applicable because the Chair operates in accordance with the Land Registration Act 2002 – s.127.

<b>Strengths identified</b>
<i>Brings judicial and legal experience and authority.</i>

<b>Areas for improvement and action planned</b>
<i>None</i>

## Role of Board Members

*Board members should provide independent, expert advice.*

Detail of Requirement	Assessment
1. There should be a formal, rigorous and transparent process for the appointment of non-executive members of the board. This should be compliant with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments.	Explain
2. Board members should be properly independent of the Department and of any vested interest (unless serving in an ex-officio or representative capacity).	Explain
3. Board members should be drawn from a wide range of diverse backgrounds. The board as a whole should have an appropriate balance of skills, experience, independence and knowledge.	Comply
4. The duties, role and responsibilities, terms of office and remuneration of board members should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements.	Explain
5. All board members must allocate sufficient time to the board to discharge their responsibilities effectively.	Comply
6. There should be a proper induction process for new board members. This should be led by the Chair. There should be regular reviews by the Chair of individual members' training and development needs.	Explain
7. All board members should ensure that high standards of corporate governance are observed at all times. This should include ensuring that the public body operates in an open, accountable and responsive way.	Explain

Overall assessment of role of the Board Members.	Green
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<b>Evidence of compliance or explanation for non-compliance</b>
1. As set out previously, the appointment process for members of LRRC is set out in statute. Membership follows either the post holders of other specified roles (eg Chief Land Registrar) or nomination by specified bodies. The appointment of the consumer affairs representative by the Secretary of State is in strict compliance with the Code of Conduct.
2. Only the consumer affairs representative is not on the committee other than ex officio or as a representative of a body (eg the Law Society, the Council of Mortgage Lenders). The consumer affairs representative is independent of Land Registry and of any vested interests.
3. Membership is set out in the Land Registration Act 2002 and represents the spectrum of interested parties.
4. This is so in the case of the consumer affairs representative. Other members are representatives of specified bodies. No members are remunerated, expenses are in practice claimed only by the consumer affairs representative.
5. LRRC has a very limited role, meeting as required, on average once or twice a year.
6. Induction is provided for consumer affairs representative. Other members have experience as representatives of their bodies. However, we will have some material (agreed with the Judge) for incoming members on the role of the LRRC and its members, expectations of how it operates, meetings, timings/frequency, expenses and so on.
7. Standards of governance are appropriate to the size and nature of LRRC.

<b>Strengths identified</b>
<i>LRRC is able to offer the specialised advice LR requires, with minimal cost to the customer/taxpayer and bureaucracy.</i>

<b>Areas for improvement and action planned</b>
<i>None</i>



## COMMUNICATIONS

*The Public Body should be open, transparent, accountable and responsive.*

Detail of Requirement	Assessment
<p>1. The public body should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000.</p>	Comply
<p>2. The public body should make an explicit commitment to openness in all its activities. Where appropriate, it should establish clear and effective channels of communication with key stakeholders. It should engage and consult with the public on issues of real public interest or concern. This might include holding open meetings or annual public meetings. The results of reviews or inquiries should be published.</p>	Explain
<p>3. The public body should proactively publish agendas and minutes of board meetings.</p>	Explain
<p>4. There should be robust and effective systems in place to ensure that the public body is not, and is not perceived to be, engaging in political lobbying. There should also be restrictions on board members attending Party Conferences in a professional capacity.</p>	Explain

Overall assessment of communications.	Green
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**Evidence of compliance or explanation for non-compliance**

1. Compliant. LRRRC has a publication scheme for FoIA: <https://www.gov.uk/government/organisations/land-registration-rule-committee/about/publication-scheme>. The LRRRC operates in the same way as Land Registry using Land Registry staff.
2. The LRRRC role is to advise the Secretary of State in accordance with the specialised knowledge of the members, not to consult with the public. Land Registry consult with the public as part of the rule making process. Information about the LRRRC's work is published within the Land Registry's annual report and accounts.
3. Not currently published but see recommendations 2 and 5, which the LRRRC has accepted.
4. The role of the LRRRC is non-political. Members bring technical and legal expertise to the Committee and adhere to their individual professional codes of conduct.

**Strengths identified**

*Provides the Minister with independent advice.*

**Areas for improvement and action planned**

*The publication of agendas and minutes.*

## CONDUCT AND BEHAVIOUR

*Board members should work to the highest personal and professional standards. They should promote the values of the public body and of good governance through their conduct and behaviour.*

Detail of Requirement	Assessment
<p>1. A Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all board members. This should follow the Cabinet Office Code. All members should be aware of the Code. The Code should form part of the terms and conditions of appointment.</p>	<p>Explain</p>
<p>2. There are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for board members. This is regularly updated.</p>	<p>Explain</p>
<p>3. There must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules.</p>	<p>Explain</p>
<p>4. There are clear rules and guidelines in place on political activity for board members and that there are effective systems in place to ensure compliance with any restrictions.</p>	<p>Explain</p>
<p>5. There are rules in place for board members and senior staff on the acceptance of appointments or employment after resignation or retirement. These are enforced effectively.</p>	<p>Explain</p>
<p>Overall assessment of the role of the Conduct and Behaviour of Board Members.</p>	<p>Green</p>

Detail of Requirement	Assessment
<b>Evidence of compliance or explanation for non-compliance</b>	
<p>1. This is so in the case of the consumer affairs representative. Other members are representatives of specified professional bodies with their own codes of conduct. There is no reason that members cannot be made aware of the Cabinet Office code.</p>	
<p>2. Membership is largely on the basis of nominated representatives of specified interests.</p>	
<p>3. Rules are in place but not published in light of the nature of the LRRC. In practice only the consumer affairs representative claims expenses. There is no reason the rules cannot be published.</p>	
<p>4. The role of the LRRC is non-political. Members bring technical and legal expertise to the Committee and there is no political aspect to their roles, so restrictions are not appropriate.</p>	
<p>5. Not appropriate in view of the nature of the LRRC, particularly given that all members, except the consumer affairs representative, are already representing other organisations.</p>	

**Strengths identified**

*Representatives of professional bodies bring the standards of those bodies.*

**Areas for improvement and action planned**

*Make members aware of the Cabinet Office Code of Conduct.*

*Rules for expenses could be published.*



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**BIS/15/223**