

**LOCAL BETTER REGULATION OFFICE (LBRO)
MANAGEMENT STATEMENT**

April 2008



1. INTRODUCTION

1.1 This document

- 1.1.1 This management statement and its associated financial memorandum have been drawn up by the Department for Business, Enterprise and Regulatory Reform (BERR) in consultation with the Local Better Regulation Office (LBRO). The document is based on a model prepared by the Treasury.
- 1.1.2 Subject to the legislation noted below, the management statement sets out the broad framework within which LBRO will operate, in particular:
- LBRO's overall aims, objectives and targets in support of the sponsor Department's wider strategic aims and current Public Service Agreement (PSA);
 - the rules and guidelines relevant to the exercise of LBRO's functions, duties and powers;
 - the conditions under which any public funds are paid to LBRO;
 - how LBRO is to be held to account for its performance.
- However, the management statement and financial memorandum do not convey any legal powers or responsibilities.
- 1.1.3 The associated financial memorandum sets out in greater detail certain aspects of the financial provisions which LBRO shall observe.
- 1.1.4 The document shall be periodically reviewed by BERR in accordance with the timetable referred to in Section 7 below.
- 1.1.5 LBRO, or the Secretary of State, in consultation with relevant devolved authorities, may propose amendments to this document at any time. Any such proposals by LBRO shall be considered in the light of evolving departmental policy aims, operational factors and the track record of LBRO. The guiding principle shall be that the extent of flexibility and freedom given to LBRO shall reflect both the quality of its internal controls and its operational needs. The Secretary of State shall determine what changes, if any, are to be incorporated in the document. Legislative provisions shall take precedence over any part of the document. Significant variations to the document shall be cleared with the Treasury or Cabinet Office as appropriate. The definition of "significant" will be determined by the sponsor department in consultation with the Treasury/Cabinet Office.
- 1.1.6 The combined document is to be signed and dated by BERR and LBRO.

1.1.7 Any question regarding the interpretation of the document shall be resolved by BERR after consultation with LBRO and, as necessary, with the Treasury and/or the Cabinet Office.

1.1.8 Copies of this document and any subsequent substantive amendments shall be placed in the Libraries of both Houses of Parliament. Copies shall also be made available to members of the public on LBRO's website.

1.2 Founding legislation; status

1.2.1 LBRO is established under the Companies Act 1985 (as amended) as a company limited by guarantee. The constitution of LBRO is set out in the Memorandum and Articles of Association. LBRO does not carry out its functions on behalf of the Crown.

1.3 The functions, duties and powers of LBRO

1.3.1 The functions, duties and powers of LBRO are set out in the Memorandum and Articles of Association attached at Annex A.

1.4 Classification

1.4.1 For policy/administrative purposes LBRO is classified as an executive non-departmental public body.

1.4.2 For national accounts purposes LBRO is classified to the central government sector.

1.4.3 References to LBRO include all its subsidiaries and joint ventures that are classified to the public sector for national accounts purposes. If such a subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and LBRO (paragraphs 65-66 of the financial memorandum).

2. AIMS, OBJECTIVES AND TARGETS

2.1 Overall aims

2.1.1. The overall aims for LBRO are to secure that local authorities carry out their regulatory functions in the areas of environmental health and trading standards effectively, in a way that does not create unnecessary burdens, and in a way that is consistent, transparent, proportionate, accountable and that action is targeted only at cases where action is needed.

2.2 Objectives and key targets

2.2.1 BERR determines LBRO's performance framework in the light of the Department's wider strategic aims and current PSA (paragraph 1.1.2). LBRO's objectives and key targets shall be agreed within LBRO's corporate and business planning process (Section 4 below).

2.2.2 Guidance on these matters is available on the Treasury's public website.

3. RESPONSIBILITIES AND ACCOUNTABILITY

3.1 The Secretary of State

3.1.1 The Secretary of State is accountable to Parliament for the activities and performance of LBRO. His/Her responsibilities include:

- approving LBRO's strategic objectives and the policy and performance framework within which LBRO will operate (as set out in this management statement and financial memorandum and associated documents);
- keeping Parliament informed about LBRO's performance;
- approving the amount of grant-in-aid/grant/other funds to be paid to LBRO, and securing Parliamentary approval;
- carrying out responsibilities specified in the Memorandum and Articles of Association.

3.2 The Accounting Officer of the sponsor Department

3.2.1 The Permanent Secretary, as the Department's principal Accounting Officer, is responsible for the overall organisation, management and staffing of BERR and for ensuring that there is a high standard of financial management in the Department as a whole. The principal Accounting Officer is accountable to Parliament for the issue of any grant-in-aid to LBRO. The principal Accounting Officer designates the Chief Executive of LBRO as LBRO's Accounting Officer, and may withdraw the accounting officer designation if he/she believes that the incumbent is no longer suitable for the role.

3.2.2 In particular the principal Accounting Officer of BERR shall ensure that:

- LBRO's strategic aim(s) and objectives support BERR's wider strategic aims and current PSA;
- the financial and other management controls applied by BERR to LBRO are appropriate and sufficient to safeguard public funds and for ensuring that LBRO's compliance with those controls is effectively monitored ("public funds" include not only any funds granted to LBRO by Parliament but also any other funds generated by approved activities or falling within the stewardship of LBRO);
- the internal controls applied by LBRO conform to the requirements of regularity, propriety and good financial management;
- any grant-in-aid to LBRO is within the ambit and the amount of the Request for Resources and that Parliamentary authority has been sought and given.

3.2.3 The responsibilities of a departmental Accounting Officer are set out in more detail in the annex to Chapter 4 of *Government Accounting*.

3.3 The sponsoring team in the Department

3.3.1 Within BERR, the Better Regulation Executive is the sponsoring team for LBRO. The team, in consultation as necessary with the relevant departmental Accounting Officer, is the primary source of advice to the Secretary of State on the discharge of his/her responsibilities in respect of LBRO, and the primary point of contact for LBRO in dealing with the Department. The sponsoring team shall carry out its duties under a senior officer who shall have primary responsibility for overseeing the activities of LBRO.

3.3.2 The sponsoring team shall advise the Secretary of State on:

- an appropriate framework of objectives and targets for LBRO in the light of the Department's wider strategic aims and current PSA;
- an appropriate budget for LBRO in the light of the Department's overall public expenditure priorities;

- how well LBRO is achieving its strategic objectives and whether it is delivering value for money.

3.3.3 In support of the departmental Accounting Officer the sponsoring team shall:

on performance and risk management -

- monitor LBRO's activities on a continuing basis through an adequate and timely flow of information from LBRO on performance, budgeting, control and risk management, including early sight of LBRO's Statement on Internal Control;
- address in a timely manner any significant problems arising in LBRO, whether financial or otherwise, making such interventions in the affairs of LBRO as the Department judges necessary;
- periodically carry out a risk assessment of LBRO's activities to inform the Department's oversight of LBRO; strengthen these arrangements if necessary; and amend the management statement accordingly. The risk assessment shall take into account the nature of LBRO's activities; the public monies at stake; the body's corporate governance arrangements; its financial performance; internal and external auditors' reports, the openness of communications between LBRO and the Department; and any other relevant matters;

on communication with LBRO -

- inform LBRO of relevant Government policy in a timely manner; advise on the interpretation of that policy; and issue specific guidance to LBRO as necessary;
- bring concerns about the activities of LBRO to the attention of the full Board, and require explanations and assurances from the Board that appropriate action has been taken.

3.4 The Chair of LBRO

3.4.1 The Chair is appointed by the Member for a term not exceeding five years. The appointment is made in line with the Code of Practice issued by the Commissioner for Public Appointments.

3.4.2 The Chair is responsible to the Secretary of State. The Chair shall aim to ensure that LBRO's policies and actions support the wider strategic policies of the Secretary of State; and that LBRO's affairs are conducted with probity. The Chair shares with other Board members the corporate responsibilities set out in paragraph 3.5.2, and in particular for ensuring that LBRO fulfils the aims and objectives set by the Secretary of State.

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

- formulating the Board's strategy;

- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Secretary of State or department;
- promoting the efficient and effective use of staff and other resources;
- encouraging high standards of propriety;
- representing the views of the Board to the general public.

3.4.4 The Chair shall also:

ensure that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;

- advise the Secretary of State of the needs of LBRO when Board vacancies arise, with a view to ensuring a proper balance of professional and financial expertise;
- on request, assess the performance of individual Board members when they are being considered for re-appointment to the Board.

3.4.5 The Chair shall also ensure that a Code of Practice for Board Members is in place, based on the Cabinet Office's model Code of Practice for Board Members of Public Bodies. The Code shall commit the Chair and other Board Members to the Nolan seven principles of public life, and shall include a requirement for a comprehensive and publicly available register of Board Members' interests.

3.4.6 Communications between the Board and the Secretary of State shall normally be through the Chair. The Chair shall ensure that the other Board members are kept informed of such communications.

3.5 LBRO's Board

3.5.1 The Board Members are appointed as set out in the Articles of Association.

3.5.2 The Board has corporate responsibility for ensuring that LBRO fulfils the aims and objectives set by the Secretary of State and for promoting the efficient and effective use of staff and other resources by LBRO. To this end, and in pursuit of its wider corporate responsibilities, the Board shall:

- establish the overall strategic direction of LBRO within the policy and resources framework determined by the Secretary of State;
- ensure that the Secretary of State is kept informed of any changes which are likely to impact on the strategic direction of LBRO or on the attainability of its targets, and determine the steps needed to deal with such changes;

- ensure that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with BERR, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account guidance issued by BERR;
- ensure that the Board receives and reviews regular financial information concerning the management of LBRO; is informed in a timely manner about any concerns about the activities of LBRO; and provides positive assurance to BERR that appropriate action has been taken on such concerns;
- demonstrate high standards of corporate governance at all times, including by using the independent audit committee (paragraph 4.6.2) to help the Board to address the key financial and other risks facing LBRO;
- set performance objectives and remuneration terms linked to these objectives for the Chief Executive which give due weight to the proper management and use of public monies.

3.5.3 Individual Board members shall act in accordance with their wider responsibility as Members of the Board – namely to:

- comply at all times with the Code of Practice (paragraph 3.4.5 above) that is adopted by LBRO and with the rules relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the Board's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of LBRO.

3.6 The Chief Executive's role as Accounting Officer

3.6.1 The Chief Executive of LBRO is designated as LBRO's Accounting Officer by the Departmental Accounting Officer of BERR.

3.6.2 The Accounting Officer of LBRO is personally responsible for safeguarding the public funds for which he/she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of LBRO.

3.6.3 As Accounting Officer, the Chief Executive shall exercise the following responsibilities in particular:

on planning and monitoring -

- establish, in agreement with BERR, LBRO's corporate and business plans in the light of the Department's wider strategic aims and current PSA;
- inform BERR of LBRO's progress in helping to achieve the Department's policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to BERR; that BERR is notified promptly if overspends or underspends 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;

on advising the Board -

- advise the Board on the discharge of its responsibilities as set out in this document and in any other relevant instructions and guidance that may be issued from time to time;
- advise the Board on LBRO's performance compared with its aims and objectives;
- ensure that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that standard financial appraisal techniques are followed as far as this is practical;
- take action as set out in paragraphs 14-18 of the NDPB Accounting Officer Memorandum 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 or efficiency or effectiveness;

on managing risk and resources -

- ensure that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure that all public funds made available to LBRO are used for the purpose intended by Parliament, and that such moneys, together with LBRO's assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by LBRO, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that effective personnel management policies are maintained;

on accounting for LBRO's activities -

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State;
- sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Statement on Internal Control regarding LBRO's system of internal control, for inclusion in the annual report and accounts;
- ensure that effective procedures for handling complaints about LBRO are established and made widely known within LBRO;
- act in accordance with the terms of this document and with the instructions and guidance in *Government Accounting* and other instructions and guidance issued from time to time by BERR, the Treasury and the Cabinet Office - in particular, the Treasury documents *The Responsibilities of an NDPB Accounting Officer* and *Regularity and Propriety*, both of which the Chief Executive shall receive on appointment. Section 70 of the attached financial memorandum refers to other key guidance;
- give evidence, normally with the Accounting Officer of BERR, when summoned before the Committee of Public Accounts on the use and stewardship of public funds by LBRO.

3.7 The Chief Executive's role as Consolidation Officer

- 3.7.1 For the purposes of Whole of Government Accounts the Chief Executive of LBRO is normally appointed by the Treasury as LBRO's Consolidation Officer.
- 3.7.2 As LBRO's Consolidation Officer the Chief Executive shall be personally responsible for preparing the consolidation information that sets out the financial results and position of LBRO, for arranging for its audit and for sending the information and the audit report to the Principal Consolidation Officer nominated by the Treasury.
- 3.7.3 As Consolidation Officer the Chief Executive shall comply with the requirements of the Consolidation Officer Memorandum and shall, in particular:
- ensure that LBRO has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process;
 - prepare the consolidation information (including the relevant accounting and disclosure requirements and all relevant consolidation adjustments) in accordance with the consolidation instructions and directions ["Dear Consolidation Officer" (DCO) and "Dear Consolidation Manager" (DCM) letters] issued by the Treasury on the form, manner and timetable for the delivery of such information.

3.8 Delegation of duties

- 3.8.1 The Chief Executive may delegate the day-to-day administration of his/her Accounting Officer and Consolidation Officer responsibilities to other employees in LBRO. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.

3.9 The Chief Executive's role as Principal Officer for Ombudsman cases

- 3.9.1 The Chief Executive is the Principal Officer for handling cases involving the Parliamentary Commissioner for Administration. As Principal Officer he/she shall inform the Permanent Secretary of BERR of any complaints about LBRO accepted by the Ombudsman for investigation, and about LBRO's proposed response to any subsequent recommendations from the Parliamentary Ombudsman.

4. PLANNING, BUDGETING AND CONTROL

4.1 The corporate plan

4.1.1 Consistent with the timetable for public spending reviews LBRO shall submit annually to the Department a draft of LBRO's updated corporate plan covering three years ahead. LBRO shall have agreed with the Department the issues to be addressed in the plan and the timetable for its preparation.

4.1.2 The plan shall reflect LBRO's statutory duties and, within those duties, the priorities set from time to time by the Secretary of State. In particular, the plan shall demonstrate how LBRO contributes to the achievement of the BERR's PSA targets).

4.1.3 The corporate plan shall set out:

- LBRO's key objectives and associated key performance targets for the three forward years, and its strategy for achieving those objectives;
- a review of LBRO's performance in the preceding financial year, and an estimate of performance in the current year;
- alternative scenarios to take account of factors which may significantly affect the execution of the plan but which cannot be accurately forecast;
- other matters as agreed between BERR and LBRO.

4.1.4 The main elements of the plan - including the key performance targets - shall be agreed between BERR and LBRO in the light of the Department's decisions on policy and resources taken in the context of the Government's wider public expenditure plans and decisions.

4.1.5 In reaching annual decisions on LBRO's rolling corporate plan and in monitoring progress, BERR shall aim to give LBRO greater planning certainty by observing the principles set out in paragraph 15 of PES(2000)25 concerning three year planning and end year flexibility (EYF). These principles are summarised in paragraph 21 of the financial memorandum.

4.2 The business plan

4.2.1 The first year of the corporate plan, amplified as necessary, shall form the business plan. 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.

4.3 Publication of plans

4.3.1 Subject to any commercial considerations the corporate and business plans shall be published. A summary version shall be made available to staff.

4.4 Reporting performance to the Department

- 4.4.1 LBRO shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in its agreed corporate and business plans.
- 4.4.2 LBRO shall take the initiative in informing the Department of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives set out in the corporate or business plans.
- 4.4.3 LBRO's performance in helping to deliver Ministers' policies, including the achievement of key objectives, shall be reported to the Department on a regular basis. Performance will be formally reviewed regularly by officials of the Department. The Secretary of State shall meet the Board formally each year to discuss the LBRO's performance, its current and future activities and any policy developments relevant to those activities.
- 4.4.4 LBRO's performance against key targets shall be reported in LBRO's annual report and accounts [see Section 5.1 below].

4.5 Budgeting procedures

- 4.5.1 LBRO's budgeting procedures are set out in the financial memorandum.

4.6 Internal audit

- 4.6.1 LBRO shall establish and maintain arrangements for internal audit in accordance with the Treasury's Government Internal Audit Standards. LBRO shall consult BERR to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving appointment in accordance with Government Internal Audit Standards (GIAS) 5.2.
- 4.6.2 LBRO shall set up an independent audit committee as a committee of its Board in accordance with the Cabinet Office's Guidance on Codes of Practice for Public Bodies and the Treasury's Audit Committee guidance.
- 4.6.3 LBRO shall arrange for periodic quality reviews of its internal audit in accordance with the GIAS. BERR shall consider whether it can rely on these reviews to provide assurance on the quality of internal audit. However, BERR reserves a right of access to carry out independent reviews of internal audit in LBRO.

- 4.6.4 BERR's Internal Audit Service shall also have a right of access to all documents prepared by LBRO's internal auditor, including where the service is contracted out. The audit strategy, periodic audit plans and annual audit report, including LBRO's Head of Internal Audit's opinion on risk management, control and governance shall be forwarded as soon as possible to the sponsoring team who shall consult the Head of Internal Audit as appropriate.
- 4.6.5 In addition, LBRO shall forward to BERR an annual report on fraud and theft suffered by LBRO; notify any unusual or major incidents as soon as possible; and notify any changes to internal audit's terms of reference, the audit committee's terms of reference or LBRO's Fraud Policy and Fraud Response Plan.

4.7 Additional Departmental access to LBRO

- 4.7.1 In addition to the right of access referred to in paragraph 4.6.3 above, BERR shall have a right of access to all LBRO's records and personnel for purposes such as sponsorship audits, operational investigations and oversight of LBRO's performance.

5. EXTERNAL ACCOUNTABILITY

5.1 The annual report and accounts

- 5.1.1 After the end of each financial year LBRO shall publish an annual report of its activities together with its audited annual accounts. The report shall also cover the activities of any corporate bodies under the control of LBRO. A draft of the report shall be submitted to BERR two weeks before the proposed publication date.
- 5.1.2 The report and accounts shall comply with the Treasury document *Executive Non-Departmental Public Bodies: Annual Reports and Accounts Guidance*. The accounts shall be prepared in accordance with the relevant statutes and the specific Accounts Direction issued by BERR.
- 5.1.3 The report and accounts shall outline LBRO's main activities and performance during the previous financial year and set out in summary form LBRO's forward plans. Information on performance against key financial targets shall be included in the notes to the accounts, and shall therefore be within the scope of the audit.
- 5.1.4 The report and accounts shall be laid before Parliament, in accordance with the guidance on the procedures for presenting and laying the combined annual report and accounts as prescribed in Chapter 13 of the NDPB Annual Reports and Accounts Guidance.

5.2 External audit

- 5.2.1 The LBRO's accounts for 2007/08 are audited by auditors appointed by the Board. The accounts of the LBRO shall be open to the inspection of the Comptroller & Auditor General (C&AG). The LBRO shall submit the audited accounts to the Secretary of State, who shall lay the accounts, together with the annual report, in the Library of the House of Commons.
- 5.2.2 With effect from 1 April 2008, the C&AG audits the LBRO annual accounts and lays them before Parliament, together with his report.
- 5.2.3 The C&AG:
- will consult the department and the NDPB on whom – the NAO or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG;
 - has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the LBRO;
 - will share with the sponsor department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the Department's responsibilities in relation to financial systems within the LBRO;
 - will, where asked, provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports which

departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

5.3 VFM examinations

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

6. STAFF MANAGEMENT

6.1 General

6.1.1. Within the arrangements approved by the Secretary of State [and the Treasury] LBRO shall have responsibility for the recruitment, retention and motivation of its staff. To this end LBRO shall ensure that:

- its rules for the recruitment and management of staff create an inclusive culture in which diversity is fully valued; where appointment and advancement is based on merit; and where there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
- the level and structure of its staffing, including gradings and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its staff at all levels is satisfactorily appraised and LBRO'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 LBRO's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistleblowing procedures consistent with the Public Interest Disclosure Act are in place;
- a code of conduct for staff is in place based on the Cabinet Office document *Model Code for Staff of Executive Non-Departmental Public Bodies*.

7. REVIEWING THE ROLE OF LBRO

- 7.1 LBRO shall be reviewed periodically, in accordance with the business needs of the Department and of LBRO.

Signed Chief Executive, Better Regulation Executive



Date: 17 April 2008

Signed Chief Executive, Local Better Regulation Office



Date: 17 April 2008