

**SRA BOARD**  
18 January 2017

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**Committee on Standards in Public Life (CSPL) Report 'Striking the Balance: Upholding the Seven Principles of Public Life in Regulation'**

**Purpose**

- 1 To update the Board on the publication of the CSPL report ' Striking the Balance: Upholding the Seven Principles of Public Life in Regulation (at Annex 3).

**Recommendations**

- 2 The Board is asked to:
  - a) consider the statements of best practice in the CSPL report and our responses (Annex 1).

**If you have any questions about this paper please contact: Jane Malcolm  
Executive Director of External Affairs, [jane.malcolm@sra.org.uk](mailto:jane.malcolm@sra.org.uk), 0121 329 6091**

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**Committee on Standards in Public Life (CSPL) Report ' Striking the Balance: Upholding the Seven Principles of Public Life in Regulation'**

**Background**

3 The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders. It is an independent advisory non-departmental public body.

4 In 2015 CSPL decided that given ' the distinctive and powerful role which bodies performing a regulatory function play in public life' it should review the extent to which such bodies upheld the Seven Principles of Public Life (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership). It therefore conducted a survey on 'Ethics for Regulators' to which we were invited to respond. The resultant report was published in September and references us once at paragraph 4.27:

*'The Solicitors' Regulatory Authority has particularly identified improving 'the culture within the organisation' in order to meet their objective of making 'fair and justifiable decisions promptly, effectively and efficiently'. Through linking the importance of organisational culture and the effectiveness of the regulation, the SRA demonstrate the importance of cultural integrity in regulation.'*

5 Lord Bew, Chair of the CSPL, sent a copy of the report to Paul Philip on 28 November 2016 (letter at Annex 2) advising that the CSPL will write again in March 2017 with a short survey inviting us to report on any action we have taken in response to the report.

**Discussion**

6 The report includes a number of recommendations and statements of best practice under 6 headings (Governance, Codes of Conduct, Revolving Door, Independence, Transparency and External Leadership). None of the four recommendations in the report apply directly to us (though they are included in Annex 1 for completeness).

7 Given that the report is aimed at all regulators and that they vary enormously in terms of their governance (for instance how Board members are appointed) and the constituencies that they regulate some of the statements of best practice are less relevant to us than others.

8 We have reviewed the report and its recommendations, mapping our policies against those cited by CSPL. For internal use only Annex 1 is a self assessment of our performance against the statements of best practice in the report. We generally measure up fairly well, though not perfectly, against most of the statements of best practice that do apply to us. For example, under the Codes of Conduct heading we have a Code of Conduct for Board members

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and external advisers to committees. We do not have a single Code of Conduct for staff but taken together our values, behaviours and policies can be said to constitute such a Code.

- 9 Broadly, we are reasonably strong on the Governance and Codes of Conduct, Transparency and External Leadership sections. We are less strong on the Revolving Door section and the Independence section has only limited relevance to us because it is focused on regulatory bodies with a greater degree of Ministerial involvement. That said it does include one statement of best practice in relation to funding which it would not be entirely within our power to meet because of our position within the TLS Group.

**Next steps**

- 10 In the light of Board comments we will look at any areas that need action in preparation for responding to the CSPL survey in March 2017.

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### **Supporting information**

#### **Links to the Strategic Plan and / or Business Plan**

- 11 The issues raised by the CSPL report and our position in response to them relate to the culture and operation of the organisation at a high level and as such are relevant to all four strategic objectives.

#### **How the issues support the regulatory objectives and best regulatory practice**

- 12 The CSPL report covers areas that support our delivery against the regulatory objectives though the behaviours and actions that it advocates will help to ensure that we deliver against the objectives in an appropriate way.

#### **Public/Consumer impact**

- 13 The statements of best practice in the report cover a number of areas (governance, transparency etc) which are important to our work to command public confidence.

#### **What engagement approach has been used to inform the work and what further communication and engagement is needed**

- 14 There has been no specific external engagement associated with the production of this paper.

#### **What equality and diversity considerations relate to this issue**

- 15 There are no specific considerations though as the report deals with areas including ethical behaviour the way in which the organisation addresses issues of equality and diversity is indirectly covered.

#### **How the work will be evaluated**

- 16 We will look at any areas that need action in the light of Board comments and will then respond to a CSPL survey expected in March.

**Author** Dominic Tambling  
**Contact Details** dominic.tambling@sra.org.uk, 0121 329 6672  
**Date** 3 January 2016

#### **Annexes**

**Annex 1** Summary of statements of best practice and recommendations from the CSPL report  
**Annex 2** Letter from Lord Bew of 28 November 2016  
**Annex 3** CSPL report (electronically and on Director's Desk only)

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**Statements of best practice and recommendations from 'Striking the Balance: Upholding the Seven Principles of Public Life in regulation'**

Governance

Statement of best practice	SRA position
<p>The board is responsible for providing leadership and setting standards on ethical behaviour within the organisation. The board should seek regular evidence-based assurance that the highest ethical standards are being upheld.</p>	<p>The ethical tone of the organisation is set by the Board and the Senior Management Team. Following their lead, the Leadership Team is charged with visible role modelling of expected behaviours. These behaviours are explicitly articulated, with positive and negative indicators, in our Behavioural Competencies. We also express the behaviours we expect through our five values (Independent, Professional, Fair, Progressive, Inclusive).</p> <p>We review role modelling, behaviours and values through our PDR framework and our staff survey, and report via our People Strategy Committee and to Board, respectively.</p> <p>All members of staff from line managers upwards complete a bi-annual self-certification exercise which monitors awareness of and adherence to our policies.</p> <p>The Governance Handbook sets out the Board's responsibilities and includes the Code of Conduct for Board members which states that they should comply with the Nolan Principles, that they act in good faith and behave with honesty and integrity.</p> <p>Board members are appraised annually following a self assessment against a list of competencies. Before appointment for a second term Board members undergo a review which involves cumulative assessment against competencies, their time commitment and overall contribution, any change in their personal circumstances and the overall make up of the Board.</p>
<p>Non-executive and lay members of boards - whether statutory or advisory - have an important role to play in ensuring that the regulatory body is beyond reproach in following the Principles of Public Life. All board members have a responsibility to ensure that adequate discussion of issues</p>	<p>The responsibilities of Board members are set out in the Governance Handbook, including that they ensure issues are explored from a range of viewpoints, promoting inclusion and equality and engaging with stakeholders when necessary.</p>

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<p>occurs before decisions are made.</p>	<p>The Board meets eight times a year, including an annual away day, and discussion also takes place at meetings of our four Board committees.</p>
<p>Corporate governance arrangements should minimise the risks of conflicts of interest and individuals acting for private gain.</p>	<p>All staff employment contracts contain a restriction clause on other employment. This requires declaration of secondary employment. Other policies, eg on the handling of price sensitive information, set out the responsibilities of staff with regard to conflicts of interest.</p> <p>Board contracts and those for external advisers to committees require confirmation that all circumstances where there is, or might be, a conflict of interest are declared and the disclosure of any such circumstances which might arise during the appointment. Board members and external advisers are routinely asked to declare any conflicts of interest during the course of Board and committee meetings.</p> <p>In April 2016 the Board agreed a new Delegation Framework which sets out how the Board, Committees and Executive work together to discharge the SRA's functions. In setting out who is empowered to make which decisions the Framework helps to minimise the risks of conflicts of interest and is a key piece of our governance architecture.</p> <p>At an operational level, our role as a fair impartial decision-maker requires staff to declare any interests and step back from making decisions if they consider themselves to be in conflict. The principles underlying this are set out in our publicly available Decision Making Framework.</p>
<p>Compliance with ethical standards of conduct should be confirmed in the annual certification by accounting officers. Regular, published information should include up-to-date registers of meetings, conflicts of interest and gifts and hospitality. These should be publicly accessible.</p>	<p>Annual certification is undertaken by TLS and there is no formal confirmation of compliance with ethical standards. We publish registers of meetings and conflicts of interest.</p>

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Codes of Conduct

Statement of best practice	SRA position
<p>At least one code of conduct should cover all personnel. This includes executive and non-executive board members, employees, secondees, consultants and contractors.</p>	<p>Our behaviours, values and policies constitute, in effect, our code for ethical conduct. We evaluate the performance of our staff against objectives, behaviours and, implicitly, our values. We have policies in place including on <i>Diversity and Inclusion</i> and <i>Dignity at Work</i>, which set clear standards of behaviour and define the role and obligations of individual members of staff and the organisation.</p> <p>In addition, as mentioned above, we have a specific Code of Conduct for Board members and external advisers, in which the Nolan principles are embedded. They are also required to have regard to the Law Society Code of Conduct for Council Members.</p>
<p>A regulatory body's code of conduct should be at least equivalent to the Civil Service Code, and reflect the ethical risks faced by the regulatory body.</p>	<p>We have mapped the various policies described in the previous response against the Civil Service Code and believe that the standards they set are appropriate for a regulator in the legal sector.</p>
<p>The standards established in the code of conduct should be evident in the recruitment and appraisal processes of the organisation. Staff should be made aware of the importance and significance of upholding these standards at their induction and through regular training processes.</p>	<p>Staff applying for roles are interviewed against our required behaviours.</p> <p>Our values and behavioural competencies form a key part of our induction training. There is a specific part of the training that focuses on our values and the behaviours we expect. Initial induction is supported by a full range of staff engagement activities including mandatory completion of Diversity and Inclusion e-learning which includes modules such as "Working with Respect" and "Managing with Respect" to set the standards of behaviour we expect.</p> <p>We continue to promote our culture in a variety of ways including through leadership and management offsite meetings; leadership learning groups; briefings; policy compliance audits; policies of the month; and through invited speakers.</p> <p>We have introduced a Professional Standards for Managers interactive training tool to support staff to learn the behaviours</p>

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	<p>expected. This approach offers the opportunity for discussion and debate and further exploration and understanding. Individual teams also undertake training and development work relevant to their particular roles.</p> <p>We have introduced an inclusive working programme to continue our development of an inclusive culture that respects and values diversity.</p>
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Revolving Door

Statements of best practice	SRA position
<p>Policies and procedures should be in place to manage 'revolving door' situations where individuals come from, or go to, the regulated sector. These should apply to all individuals at any level of the organisation.</p>	<p>We have a clear policy on recruitment and selection which provides a sound framework for fair and consistent decision making. Our approach is based upon the principles of our diversity &amp; inclusion policy, and meets the requirements of the Equality Act 2010 and all other relevant employment legislation.</p> <p>All staff and Board member contracts include a confidentiality clause. This prohibits the sharing of confidential information outside of the organisation.</p> <p>We are required to have a number of solicitor members on our Board and so necessarily recruit from that sector. We also have staff teams, such as our General Counsel's team, which include people from the community we regulate.</p>
<p>Where board members and staff are recruited from the regulated sector, relevant safeguards should be considered, such as isolation from the regulation of recent employers or exclusion from key meetings.</p>	<p>All staff employment contracts contain a restriction clause on other employment, which requires declarations of secondary employment.</p> <p>Board contracts and those for external advisers to committees require confirmation that all circumstances where there is, or might be, a conflict of interest are declared and the disclosure of any such circumstances which might arise during the appointment. Board members and external advisers are routinely asked to declare any conflicts of interest during the course of Board and committee meetings.</p> <p>At an operational level, our role as a fair impartial decision-maker requires staff to declare any interests and step back from making decisions if they consider themselves to be in conflict. The principles underlying this are set out in our publicly available Decision Making Framework.</p>
<p>At every board meeting, members should be asked to declare any actual or potential conflict of interest and these should be publicly recorded. Where the board agrees that a conflict is inappropriate, the member</p>	<p>Board members are required to declare any new interests and any actual or potential conflict of interest at Board meetings and these are recorded.</p>

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<p>should be recused from both the discussion and decision making.</p>	<p>Board members withdraw from meetings if a conflict of interest exists.</p>
<p>The process for departing board members and senior executives should be in line with arrangements for ministers and senior civil servants as determined by the advisory Committee on Business appointments. In order to ensure that such moves are conducted with integrity, and to promote trust in the regulatory body, regulators should be entirely transparent about post employment destinations and restrictions.</p>	<p>We have looked at the CBA arrangements and believe that it would be disproportionate to operate a similar system given the nature of our work.</p>
<p>Additional safeguards should be considered for anyone who leaves the regulatory body. These include explicit prohibitions on disclosing confidential information, restriction on contact with the regulator, and gardening leave requirements.</p>	<p>Board, committee and staff contracts include a requirement that confidential information will not be divulged either during or after the termination of appointment.</p>
<p>All individuals taking up positions subject to pre- and post-employment rules should be made aware of them at their appointment. Particular care should be taken where non-executive board members have a live, concurrent post which could give rise to conflicts of interest. Any conflict of interest for non-executives should be established at the start of the selection process and actively managed to ensure there are no material factors impeding independence of judgement.</p>	<p>Prospective Board and Committee members are required to make relevant declarations and undergo due diligence checks covering any regulatory engagement and other matters. This process is made clear in application materials. We have recently revised our contracts for Board and Committee members to highlight the behaviours expected and introduced a new provision to allow suspension pending investigation into any wrongdoing.</p>

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Independence

<b>Statements of best practice</b>	<b>SRA position</b>
The operational independence of regulators must be upheld. Ministerial guidance on operational aspects may be transparently considered, but should not be treated as binding, unless there are statutory provisions for such guidance.	This statement refers to operational independence from Government. We agree that regulation should be independent of Government and we are on record in our view that regulation must also be independent of representative bodies.
Any ministerial guidance to a regulatory body on its strategic direction should be published online by the regulator.	We do not receive ministerial guidance.
<i>Recommendation: Ministerial appointments must be made, in a timely and transparent manner, on merit, without patronage and with proper regard to the needs of the organisation.</i>	Does not apply to the SRA
<i>Recommendation: Unless expressly authorised in the statutory foundation of the regulator, ministers should not have the power to hire or fire the Chief Executive or any other operational staff.</i>	Does not apply to the SRA
<i>Recommendation: Each government department should publish a list of the appointments that are subject to pre-appointment scrutiny hearings, and the justification for those decisions.</i>	Does not apply to the SRA
While constructively engaging with the regulated sector, regulators should guard against the dangers of 'regulatory capture'. Regulators should seek to ensure that staff at all levels are clearly aware of conflicts of interest and are explicitly advised about the risks of bias in decision making.	We deal with this point through the Decision Making Framework and the overarching framework which refers specifically to the need to act impartially.
Regulators should regularly publish full and accessible information on their sources of funding and, specifically, any restrictions proposed by those who provide their funding. Regulatory bodies should demonstrate that funding mechanisms do not have an impact on their independence and integrity.	Information on the sources of our funding is published in the the Law Society Group Annual Report. We have dealt in the recent correspondence on the Legal Services Board's Internal Governance Rules (discussed at the 7 December 2016 Board meeting) how the current funding mechanism affects our performance.

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Transparency

<b>Statements of best practice</b>	<b>SRA position</b>
Regulators should publish and update their corporate governance documents. These should include minutes of meetings, registers of interests, annual reports, their rules and guidance and their decision making processes.	We publish all of these (save minutes of confidential meetings).
Any body with regulatory functions not designated a 'public authority' under the Freedom of Information Act 2000 should have a publication scheme in line with the best practice established by the Information Commissioner's Office.	A new Publication Scheme was agreed by the Board at its meeting on 7 December 2016 along with a Transparency Code and Fair Processing Policy.

External Leadership

<b>Statements of best practice</b>	<b>SRA position</b>
Regulators should actively engage with those they regulate and take a leadership role by encouraging positive attitudes towards compliance.	<p>The Board and executive engage with the profession in a variety of ways, for example, through individual meetings, national conferences such as our annual compliance conference, compliance events for specific groups such as the three 2016 events we held in partnership with the Black Solicitors Network, and through Meet the Board sessions in which Board members and our senior executive engage with local law societies. We spoke directly with over 10,000 solicitors last year. We also use virtual reference groups, for example for small law firms, and use webinars and other digital channels, such as LinkedIn discussions, to ensure our engagement and support for compliance reaches as many solicitors as possible.</p> <p>We have launched a 'your health, your career' campaign and suite of resources to assist solicitors to manage their welfare, supporting compliance.</p>
<i>Recommendation: Such promotion of an ethical approach to compliance would be supported by a suitable amendment to the Regulators' Code</i>	The Regulators Code is a Government Code and this recommendation is not therefore directly applicable to the SRA.