

**REPORT TO:** CILEx REGULATION BOARD  
**FOR:** DECISION/DISCUSSION  
**DATE:** 12 May 2020  
**REPORT TITLE:** Annual Review of Governance Framework (ITEM 12)  
**SUBMITTED BY:** Stuart Dalton, Director of Policy, Governance and Enforcement

**PURPOSE OF REPORT:**

1. To review the governance framework and present proposed improvements to key governance documents and processes as part of the good governance routine annual governance review.
2. The paper serves an additional function this year. The review also considers governance instrument changes needed to achieve IGR compliance.

**BACKGROUND:**

3. It is a good governance measure to routinely review key governance instrument/documents to ensure they are up-to-date and optimal. These documents were last reviewed and updated by the Board on 2 May 2019.
4. The following governance documents were reviewed with proposed improvements highlighted as tracked changes for quick identification:
  - Board member Code of Conduct
  - Schedule of matters reserved to the Board
  - Standing Orders
  - Governance Transparency Policy
  - Board, committee and panel periods of appointment
  - Expenses Policy (all non-executive roles)
  - Board member Appraisal Arrangements
  - Articles of Association

**FURTHERING THE STRATEGIC OBJECTIVES:**

5. This review helps achieve the transparency and public accountability element of the consumer objective.

**KEY ISSUES FOR CONSIDERATION:**

6. The significant changes proposed are summarised below. The full documents have been appended so the Board can vet all the proposed improvements. Where no changes are proposed, the documents have been saved to SharePoint to help keep this paper as short as possible, whilst still providing access should Board members wish to refer to them.

7. The governance instruments have been reviewed to ensure they are compliant with the IGR and are covered in the relevant sections of this paper.
8. Additional governance changes, outside of these governance instruments, required to achieve IGR compliance are addressed:
  - in this IGR section;
  - in the separate Protocols/SLA paper; and
  - further changes will be presented at the Board teleconference on 11 June for approval once they are finalised such as having a Procurement policy. A complete evidence log will be presented to the Board Teleconference capturing all the changes made for IGR compliance to provide an overview prior to Board signing off the LSB's IGR compliance certificate.
9. To be compliant with the IGR, the President of CILEx should not have attendance rights at CRL's Board. This has been discussed with CILEx, including the current President and these changes are accepted. Therefore, the Board are asked to approve the sole substantive change to the Articles of Association to remove the President having right of attendance at CRL Boards, attached at **Appendix 8**. Once approved by CRL's Board, the changes will be presented to CILEx, as CRL's parent company and shareholder, for formal approval. Please note this change has already been agreed with CILEx.
10. IGR and greater independence NEDs Steering Group: The IGR expect there to be a forum to act as a conduit for timely and constructive communications and also act as a forum to try and informally resolve IGR-related issues so only intractable or potentially repercussive situations need to escalate to the respective Boards or LSB.
11. At the February CRL Board, members fed back the desire to avoid creating any new committees for this purpose. Therefore, following discussions between Sam Younger and the CILEx Chair, it is proposed for the NEDs Steering Group to continue after IGR implementation to fulfil this function as well as to help steer further independence work. As part of this IGR liaison requirement between the regulator and membership body, the intention is to introduce an annual Board to Board with the NEDs Steering Group suggesting linking this with the wider CILEx strategy session that usually takes place in September.
12. CILEx are supportive of Sam Younger's recommendation that the IGR NEDs Steering Group has an additional CRL Board member given there are three CILEx NEDs. Therefore, the Board are asked to identify and agree an additional Board member representative.
13. To be IGR-compliant for 23 July deadline, it is necessary to amend the current Delegated Authorities List section covering Guidance on Tendering for Large Value Projects to cover support services provided by CILEx. The current £20,000 tender threshold would mean support services, currently supplied by CILEx, would need to go to tender. As a financial controls instrument, the amended document is presented for approval in the Finance papers, meaning three quotes are needed instead.

## Board member Code of Conduct – Appendix 1

14. Breaching the IGR has been added as a conduct matter.
15. What is expected when completing a declaration has been expanded to encourage providing more details for any interests that likely to generate a conflict of interest. The aim is to assist effective proactive management of potential conflicts which helps protect both any potentially Board member and CRL.

## Schedule of matters reserved to the Board – Appendix 2

16. Policy approval: From experience over the last year, since introducing more detail about which areas are reserved to the Board and which are delegated, it has become clear that there are a number of operational policies that have traditionally approved at Executive level that are purely operational and non-strategic that it is proposed remain at officer level. Therefore, it is proposed that the reservations are changed that policy areas not specifically reserved to the Board are delegated to the Executive.
17. The Matters reserved have not been changed in relation to contracts for support services like HR, Finance, IT etc, which are currently delegated to the Chief Executive. It is usual to delegate such contracts to the Chief Executive because the procurement rules must be followed and it would be not be usual for Board members to be directly involved in the detail of procurement decision-making.
18. However, the current delegation is highlighted to the Board in recognition that the Board has expressed significant interest in where support services are obtained. If the Board is happy with full delegation, then no action is needed. If the Board wish to retain a final say then it is possible to reserve to the Board ratification of the outcome from the procurement process with responsibility for the procurement process still delegated to the Chief Executive. In considering if this is needed it may help to consider that the Board has already reserved to itself contract approval for services over £50,000 over the lifetime of the contract, then Board must already approve them. However, if services are procured individually they may not meet that threshold.

## Standing Orders – Appendix 3

19. Introduced a Committees and Panel structure governance instrument, which will capture and transparently set out the committee structure once the decision is made on a Finance and/or Audit Committee.
20. For IGR compliance, the requirement there must always be a lay majority (including the chair) when the Board makes a formal decisions, has been added.
21. Suspension of Standing Orders: For clarity the ability of the Board to suspend Standing Orders has been extended to cover other governance instruments such as the Protocols, Scheme of Delegation etc. So there is no argument that the Board does not hold primacy over CRL governance.
22. A co-opting option has been added to address the possibility on a small Board of it not being possible to constitute a quorate Board for a significant period of time.

#### Governance Transparency Policy – Appendix 4

23. There are no changes proposed to the Governance Transparency Policy. We are pleased to report that the changes made to the policy in 2019 have been implemented successfully, without any issues to report. The most significant changes were:
- A minimum three days public publication timescale of Board papers prior to Board
  - A Publication Scheme (a commitment to what wider information we publish beyond Board papers)
  - A mechanism for public, press and CILEx to raise questions for Board

#### Board, committee and panel periods of appointment – Appendix 5

24. Except for the ALC and SRC, it is proposed to change Committee members, panellists and trustees are appointed for a period of three years and are eligible to serve for an additional two terms of three years, with a maximum nine year tenure in total, instead of the current six year maximum in total. Where LSB-approved Rules differ, the LSB Rules take precedence, until the Rules are amended to reflect the policy wishes of the Board captured in this document.
25. Please note the Enforcement Rules will need to be amended from a maximum six years to nine years for Panellists. We have sought legal advice which confirmed that this is legally acceptable. It is also within the ten years maximum recommended total period under the Corporate Code of Governance.
26. Please note that if the Board choose to introduce a Finance and/or Audit Committee, then this document may need to be revised because it currently excludes Committee members from being Board members.

#### Finance and/or Audit Committee

27. For IGR compliance there is no requirement to have a Finance and/or Audit Committee. For longer term good governance as we increase independence from the membership body, the Board will need to consider how it ensures robust financial stewardship. There is no imperative for the Board to make a decision on these points at May's Board. Equally, as part of the annual good governance review, it is helpful to highlight this point to the Board.
28. The context is CILEx has asked CRL to consider how CRL will ensure good financial controls and minimise unnecessary Section 30 additional funding requests from CILEx. CILEx have not asked CRL to set up a Finance Committee. However, they did suggest that there are the skills on CRL's Board to provide effective financial oversight. The Board considered this at February Board and concluded Alice Belcher, who qualified as an accountant, provides this expertise on CRL's Board.
29. At the February Board, the Board also considered if it wishes to create a Finance and/or Audit Committee. The Board has the option of deferring the decision so

that it is considered holistically as part of phase 2 of the greater independence work after the IGR are implemented, along with related matters like the reserves policy, strategic financial support and financial support services.

30. There are some advantages to a separate Finance Committee. We have traditionally not received a strategic financial support service from CILEx under our SLA, with the CFO focusing on CILEx's needs. This committee would help address that gap. Such a committee would provide more in-depth financial scrutiny than is often possible in a busy Board agenda and bring key points and recommendations to Board for targeted discussion. Best governance is audit is separate from finance but audit could also form part of the remit of such a committee. Lastly, it provides strong visible evidence of good financial governance, which would act as an assurance to CILEx and the LSB and also provide a strong defence to any CILEx claim that a Section 30 additional funding request was not justified due to weak financial controls/management within CRL.
31. However, there is also a strong argument for keep our governance structures lean, particularly when we are likely to face income pressures following the coronavirus. The Board in February emphasised the desire to minimise bureaucratic and governance complexity, which the Executive would support. It is already a challenge servicing the Board within current resources and a new committee would take up valuable resources to service. Board oversight of finances is largely working well and CRL has traditionally stayed within budget.
32. Overall, the Executive recommendation is to defer a final decision given there is no imperative to make the decision immediately and it is more likely that a best decision would be made if the decision forms part of a suite of decisions around overall financial strategy, governance, controls and financial support services as part of Phase 2 of the greater independence project.
33. If the Board is clear that a Finance Committee is the solution it wishes to take, then Terms of Reference will be drawn up and brought to the next Board meeting for approval.

#### Board succession-planning and recruitment

34. The February Board informally discussed extending Luisa Fulci's final term until 31 December 2020 to enable a single Board recruitment process and Board continuity. Short-term extensions are permitted under the Standing Orders for exceptional reasons. The Board are asked to formally approve this decision.
35. It is intended to carry out benchmarking of remuneration to inform the advertised remuneration for new Board members. Current thinking, subject to the benchmarking, is it is unlikely to see any increase. There is the option of decreasing the future Chair's hours or remuneration to save money. Equally, it is crucial to attract a high-calibre Chair. Benchmarking will assist with this assessment.

#### Expenses policy – Appendix 6

36. On the first page, under “Who it applies to”, the Compensation Fund Board and Compensation Claims Adjudicators have been removed given the company was dissolved in 2018 and is now effectively a department under CILEx Regulation, so would fall under CILEx Regulation Board.
37. Following feedback from our Management Accountant that there have been submissions including tray charges for members using room service. In paragraph 35 we have added a line saying room service charges should be avoided where possible and would not be paid over the £30 upper limit including food.

Board member Appraisal Arrangements – Appendix 7

38. Following changes to the form last year designed to act as a prompt to consider the different skills and aspects of being an effective Board member, no changes are proposed this year.

**RECOMMENDATIONS:**

- To **APPROVE** the amendments proposed to governance documents;
- To **APPROVE** the amendment to the Articles of Association, removing the CILEx President’s attendance rights at CRL Board;
- To **DECIDE** if the Board wishes to create a Finance committee at this stage or, as recommended by the Executive, defer the decision to be considered as part of the Phase 2 greater independence project;
- To agree the additional Board member to sit on the IGR NEDs Steering Group; and
- To **APPROVE** extending Luisa Fulci’s final term until 30 December 2020.

**IMPACT ASSESSMENT:**

<b>Public/Consumer</b>	
Consumer	Proposals demonstrate sound governance and are designed to enhance transparency
Public interest	Ditto
Environment	Ditto
<b>Regulated Community</b>	
Cost of Regulation	No direct impact – good governance underpins good control of regulatory cost
Equality and Diversity	Recommendations propose steps to strengthen the approach to appointments delivering diversity
<b>Us</b>	
Reputation/Brand	Sound and transparent governance arrangements will enhance our brand and reputation
Resources:	No direct impact
Operations:	No direct impact
Risk:	Risk of opportunity to improve scores at LSB assessment if is lost without continuous review and improvement of governance arrangements
Finance:	No direct impact
Legal:	No direct impact
IT:	No direct impact

**APPENDICES:**

- Appendix 12.1:** Board member Code of Conduct
- Appendix 12.2:** Schedule of matters reserved to the Board
- Appendix 12.3:** Standing Orders
- Appendix 12.4:** Governance Transparency Policy
- Appendix 12.5:** Board, committee and panel periods of appointment
- Appendix 12.6:** Expenses Policy (all non-executive roles)
- Appendix 12.7:** Board member Appraisal Arrangements
- Appendix 12.8:** Articles of Association and amendment form