

THE LEASEHOLD ADVISORY SERVICE (LEASE)

MANAGEMENT STATEMENT AND FINANCIAL MEMORANDUM

PART A — MANAGEMENT STATEMENT

ISSUED BY THE DEPARTMENT FOR COMMUNITIES & LOCAL
GOVERNMENT (DCLG): MAY 2006

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I INTRODUCTION

1. This Management Statement should be read in conjunction with the Financial Memorandum which has been drawn up by the Department for Communities and Local Government (DCLG) in liaison with the National Assembly for Wales (NAfW) as co-funding Department and the Leasehold Advisory Service (LEASE).
2. Taken together and subject to the Memorandum and Articles of Association, this statement and the Financial Memorandum set out the framework of accountability within which LEASE will operate, in particular:
 - a. rules and guidelines relevant to the exercise of LEASE's functions;
 - b. the conditions under which funds are paid to LEASE;
 - c. how LEASE is to be held to account for its performance; and
 - d. LEASE's overall aims, objectives and targets.
3. The Financial Memorandum sets out in greater detail certain aspects of the financial provisions which LEASE are required to observe.
4. The Management Statement and Financial Memorandum (MSFM) will be reviewed every 5 years in accordance with chapter VIII below.
5. LEASE, DCLG or NAfW may propose amendments to the MSFM at any time. Following consultation with all parties concerned the DCLG as principal sponsor, will determine what changes, if any, are to be incorporated in to the MSFM. The DCLG is responsible for resolving any questions regarding the interpretation of the MSFM after consultation with LEASE.
6. Copies of the MSFM and any subsequent substantive amendments will be placed in the libraries of both Houses of Parliament. Copies will also be placed on LEASE's Internet site and made available to members of the public on request.

Founding Legislation; status

7. LEASE is established under the Companies Act 1985 as a company limited by guarantee. The constitution of LEASE is set out in the Memorandum and Articles of Association. LEASE does not carry out its functions on behalf of the Crown. LEASE receives its funding by virtue of section 94 of the Housing Act 1996.

Classification

For policy and administrative purposes LEASE is classified as an executive non-departmental public body (NDPB).

9. For national accounts purposes LEASE is classified to the central government sector.
10. References to LEASE include all its subsidiaries and joint ventures that are classified to the public sector for national accounting purposes. (If such a subsidiary or joint venture is created, there will be a document setting out the arrangements between it and LEASE). Any reference to LEASE excludes LEASE Conferences Ltd

The functions, duties and powers of LEASE

11. LEASE's functions, duties and powers are given in its Articles of Association. These are reproduced as an annex to the MSFM.

I AIMS, OBJECTIVES AND TARGETS

Overall Aim

12. The overall aims of LEASE are:

To provide general, objective and impartial advice to tenants, landlords, professional advisers, professional bodies and others as well as to Government on all aspects of residential leasehold law in England and Wales.

Objectives and Key Targets

13. DCLG and NAFW determine LEASE's objectives and key targets in consultation with LEASE and in line with the Departments' own objectives. They are stated in the business plan which is agreed on a yearly basis.

II RESPONSIBILITIES AND ACCOUNTABILITY

The Secretary of State

14. The Secretary of State is accountable to Parliament for the activities and performance of LEASE. His/Her responsibilities in relation to LEASE include:
 - a. approving LEASE's strategic objectives and the policy and performance framework within which LEASE will operate as set out in the MSFM;
 - b. providing information to Parliament as required;

- c. approving the amount of grant in aid paid to LEASE;
- d. carrying out the responsibilities specified in the Memorandum and Articles of Association, including appointments to the Board, approving the terms and conditions of Board members, approving the appointment of the Chief Executive; and
- e. the laying of the annual report and accounts in the libraries of Parliament.

The Permanent Secretary

- 15. The Permanent Secretary, as the DCLG's principal Accounting Officer, is responsible for the overall organisation, management and staffing of the DCLG 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 LEASE. The principal Accounting Officer designates the Chief Executive of LEASE as LEASE's Accounting Officer, and may withdraw the accounting officer designation if he believes that the incumbent is no longer suitable for the role.
- 16. In particular, the principal Accounting Officer for DCLG shall ensure that:
 - a. the financial and other management controls applied by DCLG to LEASE are appropriate and sufficient to safeguard public funds and for ensuring that LEASE's compliance with those controls is effectively monitored;
 - b. the internal controls applied by LEASE conform to the requirements of regularity, propriety and good financial management
- 17. The responsibilities of DCLG's principal Accounting Officer are set out in Chapter 4 of Government Accounting.

The Sponsoring team in the DCLG

- 18. The sponsoring team in the DCLG, in consultation as necessary with the DCLG principal Accounting Officer, is the primary source of advice to the Secretary of State on the discharge of his/her responsibilities in respect of LEASE. The DCLG sponsoring team is also the primary point of contact for LEASE in respect of residential leasehold issues (including any grant-in-aid received for these issues).
- 19. The main functions of the sponsoring teams are:

- a. To maintain an effective relationship with LEASE and communicate with them on all relevant matters;
 - b. To liaise with LEASE about relevant Government policy and possible amendments to legislation;
 - c. To provide adequate funding to LEASE in order that they may carry out the functions for which they are established;
 - d. To monitor and review LEASE's performance and take action where appropriate;
 - e. To bring concerns about the activities of LEASE to the attention of the board, and require explanations and assurances that appropriate action has been taken.
20. In support of DCLG's principal Accounting Officer, the sponsoring team on performance and risk management issues shall:
- a. Monitor LEASE's activities on a continuing basis through an adequate and timely flow of information from LEASE on performance, budgeting, control and risk management, including early sight of LEASE's Statement on Internal Control (SIC);
 - b. Address in a timely manner any significant problems arising in LEASE, whether financial or otherwise, making such interventions in the affairs of LEASE as the DCLG considers necessary after liaising NAFW where appropriate;
 - c. Periodically carry out a risk assessment of LEASE's activities to inform the Department's oversight of LEASE; strengthen these arrangements if necessary; and amend the MSFM accordingly. The risk assessment shall take into account the nature of LEASE's activities; the public monies at stake; LEASE's corporate governance arrangements; its financial performance; internal and external auditors' reports, the openness of communications between LEASE and the DCLG, and any other relevant matters

The Chair of LEASE

- 21. The Chair of LEASE is appointed by the Secretary of State, for a term of 5 years, in accordance with guidance issued by the Commissioner for Public Appointments.
- 22. The Chair is responsible to the Secretary of State for ensuring that LEASE's management policies are broadly consistent with those of the Secretary of State, and that LEASE's affairs are conducted with probity. The Chair is also responsible for ensuring that LEASE's policies are broadly consistent with those for which *NAFW* are co-

fundere. The Chair shares with other Board members the corporate responsibilities set out in paragraph 30 below, and in particular for ensuring that LEASE fulfils the aims and objectives set by the DCLG and NAFW.

23. The Chair has particular responsibility for providing effective strategic leadership of the following matters:
 - a. Formulating the Board's strategy for discharging its duties;
 - b. Encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources throughout LEASE;
 - c. Representing the views of the Board to the general public;
 - d. Ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the DCLG or NAFW;
 - e. Providing an annual assessment of performance of individual Board members, and in particular when they are being considered for re-appointment to the Board; and
 - f. Appointing, in consultation with the Board and with the Secretary of State's approval (including the performance objectives and remuneration terms), a Chief Executive for LEASE;
24. The Chair will ensure that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their other duties, rights and responsibilities; that they receive induction or other training that may be necessary to ensure they are able to fulfill the duties and requirements of a public body.
25. When Board vacancies arise the Chair is responsible for advising the sponsor team within DCLG of the needs of LEASE with a view to ensuring a proper balance of professional, financial and other expertise that may be necessary.
26. The Chair will ensure that a Code of Practice for Board members is in place, based on the model Code of Practice for Board Members of Public Bodies produced by the Cabinet Office. The Code will commit the Chair and other Board members to the Nolan seven principles of public life, and will include a requirement for a comprehensive and publicly available register of Board members' interests.
27. Communications between the Board and the Secretary of State (leasehold issues) and the Minister for Social Justice & Regeneration for the National Assembly for Wales (leasehold matters directly affecting Wales) as co-funders, will normally be through the Chair.

LEASE's Board

28. Board members are appointed by the Secretary of State in accordance with the relevant governing documents and guidance issued by the Commissioner for Public Appointments.
29. Board members have corporate responsibility for ensuring that LEASE fulfils the aims and objectives set out in the governing documents fisted in paragraph 69 of the Management Statement and complies with any statutory or administrative requirements for the use of public funds. Other important responsibilities of Board members are:
 - a. Ensuring that high standards of corporate governance are observed at all times;
 - b. Establishing the overall strategic direction of LEASE and the policy and resources framework agreed with the responsible Minister;
 - c. Ensuring that the Board operates within the limits of its statutory authority and any delegated authority agreed with DCLG, and in accordance with any other conditions relating to the use of public funds;
 - d. Ensuring that within LEASE a distinction is made between strategic planning and management, which are the responsibility of the Board, and day-to-day management issues which are the responsibility of the Chief Executive. These arrangements should be set out in writing.
30. Individual Board members should also be aware of their wider responsibilities as members of the Board, namely;
 - a. To comply at all times with the Code of Practice that is adopted by LEASE and with the rules relating to the use of public funds and to conflicts of interest;
 - b. To act in good faith and in the best interests of LEASE;
 - c. Not to 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; and
 - d. To comply with the Board's rules on acceptance of gifts and hospitality (and of business appointments).
31. LEASE will also set up/maintain an Audit Committee as a committee of the board in accordance with paragraph 8.3.17 of *Government*

Accounting and the Cabinet Office's Guidance on Model Codes of Practice for Board Members of Public Bodies, and other such committees as may be necessary to conform to best standards of corporate governance and risk management.

The Chief Executive's role as Accounting Officer

32. As LEASE's Accounting Officer the Chief Executive 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 LEASE. He/she should act in accordance with the terms of the MSFM and with the instructions and guidance in *Government Accounting* and other instructions and guidance issued from time to time by the DCLG, 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 will receive on appointment.

33. As LEASE's Accounting Officer the Chief Executive will, in particular:
 - a. Establish, in agreement with DCLG and the Board, LEASE's corporate and business plans;

 - b. Ensure that timely forecasts and monitoring information on performance and finance are provided to DCLG (and co-funders as necessary), that DCLG is notified immediately if any over or under spends are likely and of any corrective action taken to rectify matters; and that he/she will notify DCLG promptly of any problems, whether financial or otherwise, in a timely manner;

 - c. Ensure that LEASE keeps within the expenditure budgets allocated by DCLG;

 - d. Advise the Board on the discharge of its responsibilities as set out in the MSFM and in any other relevant instructions and guidance that may be issued from time to time;

 - e. Ensure that financial considerations are taken fully into account by the Board at all stages in reaching executive decisions and that standard financial appraisal techniques are followed as far as this is practical;

 - f. Take action as set out in paragraphs 14 — 18 of the NDPB Accounting Officer Memorandum (Annex 8.2) if the Board, or its Chairman, is contemplating a course of action which the Chief Executive considers would infringe the requirements of propriety or regularity or which would not represent prudent or economical administration or efficiency or effectiveness;

- g. Ensure that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving results and targets;
- h. Ensure that an effective system of programme and project management and contract management is maintained;
- i. Ensure that all public funds made available to LEASE (including any approved income or other receipts) are used for the purposes intended by Parliament, and that such monies, together with LEASE's assets, equipment and staff, are used economically, efficiently and effectively;

Ensure that adequate internal management and financial controls are maintained by LEASE, including effective measures against fraud and theft;

- k. 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;
- l. Ensure that effective personnel management policies are maintained;
- m. Be responsible for signing the accounts and 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;
- n. Sign a Statement of Accounting Officer's responsibilities and Statement of Internal Control (SIC) regarding LEASE's system of internal control, for inclusion in the annual report and accounts;
- o. Give evidence, normally with DCLG's principal Accounting Officer, when/if summoned before the Public Accounts Committee on the use and stewardship of public funds by LEASE; and
- p. Ensure that effective procedures for handling complaints about LEASE are established and made widely known within the body.

34. LEASE should adopt a code of openness based on the Code of Practice on Access to Government Information (Freedom of Information).

Chief Executive's role as Principal Officer for Ombudsman cases

35. 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 DCLG, and the sponsor team, of any complaints about LEASE accepted by the Ombudsman for investigation, and about LEASE's proposed response to any subsequent recommendations from the Parliamentary Ombudsman.

Delegation of Chief Executive's duties

36. The Chief Executive may delegate day-to-day administration of his/her Accounting Officer responsibilities to other employees in LEASE. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in the MSFM.

Chief Executive's role as Consolidation Officer

37. For the purposes of Whole of Government Accounts the Chief Executive of LEASE is appointed by the Treasury as LEASE's Consolidation Officer.
38. As LEASE's Consolidation Officer the Chief Executive shall be personally responsible for preparing the consolidation information that sets out the financial results and position of LEASE, for arranging its audit and for sending the information and the audit report to the Principal Consolidation Officer nominated by the Treasury.
39. As Consolidation Officer the Chief Executive shall comply with the requirements of the Consolidation Officer Memorandum and shall, in particular:
 - a. Ensure that LEASE has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process; and
 - b. 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.

IV PLANNING, BUDGETING AND CONTROL

Corporate Plan

40. LEASE shall submit annually to DCLG a draft of their updated corporate plan covering three years ahead, consistent with the timetable for public spending reviews. DCLG will liaise with NAFW and will agree with them, and LEASE, the issues to be addressed in the plan and the timetable for its preparation.
41. The corporate plan shall set out:
 - a. LEASE's key objectives and any associated key performance targets for the three forward years, and its strategy for achieving those objectives;
 - b. A review of LEASE's performance in the preceding financial year, and an estimate of performance in the current year;
 - c. Alternative scenarios to take account of factors which may significantly affect the execution of the plan, but which cannot be accurately forecast; and
 - d. Other matters agreed between DCLG, NNW and LEASE.
42. The main elements of the plan — including key performance targets - shall be agreed between DCLG and LEASE.
43. DCLG and NAFW shall be sent a copy of the corporate plan. The corporate plan shall be made available on LEASE's internet site (subject to any commercial considerations), and copies made available to its staff.

Application for Grant in Aid

44. LEASE will agree with DCLG the issues to be included in any application for grant in aid and the timetable for its preparation.

Business Plan

45. LEASE must produce a business plan covering the year ahead. The business plan shall include key targets and milestones for the year. The business plan can be amended by agreement between DCLG, NAFW and LEASE
46. DCLG and NAFW shall be sent copies of the business plan. The business plan shall be made publicly available on LEASE's internet site (subject to any commercial considerations), and copies made available to staff.

Reporting Performance to DCLG and NafW

47. LEASE will operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against budgets and targets in line with the business plan.
48. LEASE shall inform DCLG of any changes in external conditions which will make the achievement of objectives more (or less) difficult, or which may require a change to the budget or objectives set out in either the business or corporate plan.
49. LEASE will report its performance against the business plan targets to DCLG on a quarterly basis. Performance will be formally reviewed regularly by officials of DCLG. Senior DCLG officials will meet with the Chairman and Chief Executive formally each year to discuss LEASE's performance, its current and future activities and any policy developments relevant to those activities.
50. LEASE's performance against key targets will be reported in its annual report and accounts which are submitted to DCLG as requested.

Risk Management

51. As part of its planning, operational, monitoring and review activities LEASE must consider and put in place as necessary, a risk management policy appropriate to LEASE's circumstances. The Treasury publication, *Management of Risk, a strategic overview, with supplementary Guidance for Smaller Bodies*, provides guidance.

Budgeting procedures

52. LEASE's budgeting procedures are set out in the financial memorandum.

Internal Audit

53. LEASE will establish and maintain internal arrangements for internal audit in accordance with the Treasury's Government Internal Audit Standards. LEASE shall consult with DCLG's Internal Audit Services to ensure that the latter is satisfied with the internal audit arrangements in place.
54. DCLG's Internal Audit Service shall have a right of access to all documents prepared by LEASE's internal auditor, including where the service is contracted out. The audit strategy, any periodic audit plans and annual audit report shall be forwarded as soon as possible to the principal sponsoring team.

55. LEASE 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.

Access

56. In addition to the rights of access referred to in paragraph 55 above, DCLG shall have a right of access to all LEASE's records and personnel for purposes such as sponsorship audits and operational investigations.
57. The C&AG may carry out examinations into the economy, efficiency and effectiveness with which LEASE 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 the National Audit Act 1983. LEASE shall provide, in conditions to contracts, for the C&AG to have access to documents held by contractors as may be required for such examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by him which are held by other bodies.

Fraud and theft

58. LEASE will forward to DCLG an annual report on fraud and theft suffered by LEASE; notify DCLG of any unusual or major incidents as soon as possible; and also notify DCLG of any changes to internal audit's terms of reference, the audit committee's terms of reference, or LEASE's Fraud Policy and Fraud Response Plan, see paragraph 2.8 of the financial memorandum.

V EXTERNAL ACCOUNTABILITY

The Annual Reports and Accounts

59. LEASE must keep proper accounts and records, and must retain financial records as appropriate. After the end of each financial year LEASE shall prepare and publish an annual report of its activities together with its audited annual accounts, as a combined document. The report will also cover the activities of any corporate bodies under the control of LEASE.
60. After the end of each financial year LEASE shall prepare a combined annual report of its activities together with its audited accounts. **By 30 MAY** LEASE shall submit to DCLG a draft annual report and accounts (including full notes and the foreword).
61. The accounts shall be prepared in accordance with the relevant statutes and the specific Accounts Direction issued by DCLG.

62. The report and accounts shall outline LEASE's main activities and performance during the previous financial year and set out in summary form LEASE'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.
63. The final version of the annual report and audited accounts shall be sent to the principal sponsoring team in DCLG **by 15 July** for forwarding to the Secretary of State and for laying in the libraries of the Houses of Parliament. After the report and accounts have been laid, LEASE shall make copies of these available to the public in both paper form and on their web-site.

External Audit

64. LEASE will ensure that its contract with its external auditors will require the auditors to prepare a management letter (together with LEASE's replies) and regulatory compliance report each year, both covering issues specified by DCLG as set out in Annex G and Annex H. LEASE shall copy these letters to DCLG as soon as is reasonably practicable after receipt.

VI STAFF MANAGEMENT

General

65. Within the arrangements approved by the DCLG LEASE will have responsibility for the recruitment, retention and motivation of its staff.
66. LEASE will ensure that:
 - a. Its rules for the recruitment and management of staff provide for appointment and advance on merit, where it creates an inclusive culture in which diversity is valued, 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;
 - b. 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;
 - c. The performance of its staff at all levels is satisfactorily appraised and LEASE's performance measurement systems are reviewed from time to time;

- d. Its staff are encouraged to acquire the appropriate professional, management, legal and other expertise necessary to achieve LEASE's objectives;
- e. Proper consultation with staff takes place on issues affecting them, e.g. pay (but no negotiations must take place before agreement has been reached with DCLG), health and safety etc.;
- f. Adequate grievance and disciplinary procedures are in place; and
- g. 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*, (including whistle blowing procedures consistent with the Public Interest Disclosure Act).

VII COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

Instructions and Guidance

67. LEASE shall comply with the following documents or their successors:
- a. This Management Statement and the associated Financial Memorandum;
 - b. Government Accounting guidance for NDPB's;
 - c. Non-Departmental Public Bodies — a Guide for Departments (the NDPB 'Guide), published by the Cabinet Office;
 - d. The Government Internal Audit Manual and The Government Information Systems Audit Manual;
 - e. Executive NDPB's — Annual reports and Accounts Guidance, issued by the Treasury;
 - f. Relevant 'Dear Accounting Officer' (DAO) letters issued by HM Treasury;
 - g. The Treasury's guidance on Regularity and Propriety;
 - h. Other relevant instructions and guidance issued by central Departments and DCLG; and
 - i. Any recommendations made by the Public Accounts Committee or other Parliamentary authority which have been accepted by the Government and which are relevant to LEASE.

68. DCLG or NAW may reduce LEASE's expenditure limit or withhold grant-in-aid or any other funding, or amend any delegated limits, if any condition or requirement set out in the MSFM or the instructions and guidance listed above is not fulfilled.

VII REVIEWS

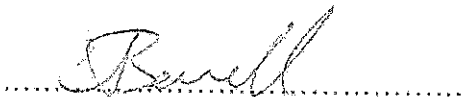
69. LEASE shall be reviewed periodically, in accordance with the business needs of DCLG and the needs of LEASE. In any case a review shall take place every 5 years in accordance with the Cabinet Office guidance on "lighter touch" reviews.
70. The next review of LEASE shall take place in the financial year 2009/2010.
71. The terms of this Management Statement and Financial Memorandum and LEASE's compliance with them shall be reviewed as part of any review. The Management Statement and Financial Memorandum may also be reviewed at any time with agreement of DCLG.

Signed by Chief Executive of LEASE



Dated... 22 May 2006

Signed by DCLG Official as Minister's representative



Dated... 26/05/06