



### Update on Legal Compliance Review

<b>Outcome requested</b>	ARC is asked to <b>consider</b> for the proposals for updating Queen Mary’s Legal Compliance Reporting, as recommended in this paper, to be trialled on a pilot basis to report back at ARC’s June meeting.
<b>Executive Summary</b>	<p>Queen Mary has the opportunity to refresh its Legal Compliance Reporting processes. This paper provides further information on the new approach to reporting which, in addition to compliance exceptions and issues, will also include insights from a rolling programme of engagement between Queen Mary’s Legal Counsel and compliance leads. This approach will provide additional oversight of the processes and procedures in place to identify, manage and mitigate legal compliance risk.</p> <p>In particular, this paper identifies three main topics relevant to legal compliance risk: changes to legislative/ regulatory environment; specific legal compliance risks; and compliance culture. This paper proposes that engagement with legal compliance will support a culture of compliance and will assist business units with ensuring that risk mitigations are operating satisfactorily and within risk tolerance.</p>
<b>QMUL Strategy: strategic aim reference and sub-strategies [e.g., SA1.1]</b>	Good governance supports all aspects of the strategy
<b>Strategic Risks:</b>	Compliance; operational legal risk
<b>Subject to prior and onward consideration by:</b>	N/A
<b>Confidential paper under FOIA/DPA:</b>	No
<b>Equality Impact Assessment:</b>	N/A
<b>Timing:</b>	N/A
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<b>Senior Management/External Sponsor</b>	Jonathan Morgan, Chief Governance Officer and University Secretary

## Background

1. Queen Mary's Legal Compliance Reporting (**LCR**) previously followed the framework and timing established by the HEFCE regulatory framework, and additional flexibility is now possible. As such, the Audit and Risk Committee (**ARC**) is considering whether its LCR process can be revised to provide greater value to ARC and Queen Mary. In particular, ARC has supported a rolling programme of engagement between the University's Legal Counsel and the relevant compliance leads with the aim of providing greater insight and supporting compliance culture. More detail can be found in ARC paper "*ARC23-22 Update on legal compliance reporting*". The LCR deals with operational legal risk, rather than strategic legal risk.
2. Any LCR changes are driven by Queen Mary's desire for continuous improvement rather than any identified failing or deficiency.

## Task

3. To examine the LCR process and recommend changes to that process, including the involvement of Legal Counsel.

## Recommended approach

4. The below approach is proposed to re-energise and refocus the LCR process. The approach will be adaptive in response to feedback and effectiveness, and is designed to:
  - 4.1. provide a broader, more holistic approach to identifying and managing operational legal risk;
  - 4.2. provide business units with clear mechanisms to discuss and raise operational legal risks either pro-actively or during one-on-one discussions with Legal Counsel;
  - 4.3. promote a deeper understanding and engagement with operational legal risk across the University, allowing for more effective and early engagement; and
  - 4.4. drive greater centralised visibility of operational legal risk, allowing for a more comprehensive and consistent response to risks.

## Risks Covered

5. Queen Mary's business units manage a varied and dynamic set of legal operational risks. The LCR reporting will focus on three main areas:
  - 5.1. **Changes to legislative/ regulatory environment.** Material new or anticipated risks, forecast prospectively for the coming 12-month period. This is largely covered by existing LCR reporting.
  - 5.2. **Specific legal compliance risks.** Risks arising from specific situations, factors, or matters, that are that are not caught by 5.1. For instance, these could be risks arising from world events, student/ staff practices, or threatened legal proceedings. Recognising the importance of spreading ideas within Queen Mary, risks both outside of tolerance and those that have been effectively brought within tolerance will be reported upon.

5.3. **Compliance culture.** The broader approach to compliance and risk management within different Queen Mary departments.

6. In all instances, the LCR process will seek to engage collaboratively with the relevant business units to gain comfort that relevant risks are being proactively identified, managed, and mitigated. Where this is not the case, the Governance and Legal Services Directorate (**DGLS**) will seek to raise the issue as required with relevant stakeholders to ensure the matters are properly addressed. In this way, DGLS will act primarily to facilitate appropriate processes rather than undertaking work to directly resolve specific risks. Nonetheless, where appropriate DGLS will assist in resolving any risks directly, by project managing collaboration between teams, or by retaining external counsel.

### ***Engagement process***

#### 7. **Changes to legislative/ regulatory environment**

- 7.1. Each Legal Area Owner (as set out in the Legal Compliance Register in **Annex A**) will be asked annually to self-report any risks. If such risks are identified, the relevant Owner will be asked to fill in a short report (**Report**) describing the risk, its anticipated impact, and the intended steps to sufficiently mitigate the risk and bring it within tolerance.
- 7.2. Legal Counsel will then meet with each Owner to discuss their Report, provide a “*fresh eyes*” perspective, and step through the proposed mitigation steps. These risks will be identified in the next LCR report to ARC.

#### 8. **Specific legal compliance risks**

- 8.1. These risks will be identified informally to the Legal Counsel, whether by ARC, the Chief Governance Officer and University Secretary, or some other person/ channel, and might include risks identified through internal audits or deep dive processes. Appropriate risks may also be drawn from the Strategic Risk register. Indicative examples of specific compliance risks are outlined in **Annex B**.
- 8.2. Legal Counsel will engage with the relevant business unit and Queen Mary staff to ensure that there are effective plans or processes in place to manage the relevant risk. When dealing with a risk that is well controlled and within tolerance, the focus will be on whether there are any lessons or processes that can be shared across Queen Mary more broadly.
- 8.3. To ensure broad coverage, each of the business units/ areas currently listed on the Strategic Risk Register (excluding those listed as Part 1 Strategic Risks) will be engaged at least once in this process over a three year period.

#### 9. **Compliance culture**

- 9.1. Each Legal Area Owner will meet with the Legal Counsel once a year to explore the broader compliance culture within the Owner’s Legal Area. These discussions will explore topics such as how risk is identified, discussed, and mitigated within the Legal Area, and how “*lessons learnt*” are incorporated going forward.

- 9.2. Any issues areas of potential improvement will be discussed between DGLS and the Legal Area Owner, with any insights from these discussions reported to ARC.

**Escalation of risks and LCR reports to ARC**

10. Operational legal risks that are identified as requiring active engagement from DGLS or are outside of tolerance will be escalated on an as-needed basis via appropriate existing supervisory structures. For instance, depending on their nature, issues may be raised: internally within DGLS, with the Chief Governance Officer and University Secretary; or with the Senior Executive Team.
11. The LCR reports to ARC will aim to provide detail appropriate to the subject matter of each report so as to allow ARC to continue its supervisory role for risk management across the University. Some areas, such as anticipated legislative changes, will ordinarily contain greater detail, while other areas such as compliance culture are expected to be addressed at a higher level. The nature of the LCR reports is expected to change in response to feedback from ARC. At a minimum, LCR reports will provide updates of any risk areas identified as outside of risk tolerance or requiring escalation.
12. LCR report is currently delivered annually at the November meeting of ARC. LCR reporting will be changed to standard twice-yearly reports in March and June, with the option to report at other times on an exceptional basis.

**Key risks associated with the recommended approach**

13. The above recommended approach has been designed to mitigate key risks in the reporting structure. The table below sets out the primary risks, and the steps taken to mitigate against them.

Risk	Potential alternatives/ mitigation steps
The proposed reporting structure is seen as too onerous for business areas	<p><i>Re legislative change reporting:</i> the self-reporting structure has been largely retained from the existing LCR process. This will reduce the amount of additional work required.</p> <p><i>Re specific legal risks and compliance culture:</i> the approach is designed to be consultative and collaborative. Any work tasks resulting from the meetings are expected to be primarily agreed with the business.</p> <p>The LCR reporting framework will remain flexible, and business feedback will be sought – if this concern is raised by the business, the approach can be reassessed.</p>
Confusion as to what risks need to be identified as part of the process	<p><i>Re legislative change reporting:</i> This has been mitigated by adopting similar questions to the existing process.</p> <p>This is not an issue for the specific legal risks, which will be selected by Legal Counsel.</p>

<p>The process is seen as not having sufficient benefit, leading to lack of business “buy-in”, thereby creating fragmented risk approaches within Queen Mary, and increased operational legal risk.</p>	<p>The recommended approach is designed to be facilitative. However, where the approach identifies a need for concrete action, this can be project managed or provided by DGLS (either itself or, where required, by retaining external counsel).</p>
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**Annex A – Legal compliance register**

<b>Business Area</b>	<b>Legal Area</b>	<b>Owner</b>	<b>To be completed by</b>
Governance	Office for Students	CGO (non-financial) CFO (financial)	Director of Governance and Legal Services Director of Finance
	Charity Law (as it applies to QMUL and QMSU)	CGO	Director of Governance and Legal Services
	Fundraising	CGO	Director of External Relations
	Education Act, including: Freedom of Speech Council responsibilities under 1994 Education Act for the Students' Union Public Interest Disclosure	CGO	Director of Governance and Legal Services
Finance	Finance, tax, procurement, and company law	CFO	Director of Finance
	Standards of business conduct: Fraud & Bribery Modern slavery	CFO	Director of Finance
Equality and Diversity	Equality and diversity legislation	COO	Director of Human Resources
Staff and student matters	Employment legislation	COO	Director of Human Resources
	Occupational health	COO	Director of Human Resources
	Immigration and asylum	COO (staff) CGO (students)	Director of Human Resources Director of Student Experience
	Safeguarding	CGO	Director of Student Experience
	Competition Law and Consumer Protection	CGO	Director of Governance and Legal Services
Estates	Counter-terrorism	CGO	Director of Student Experience
	Property law, buildings and maintenance	COO	Director of Estates and Facilities
Academic and research	Environmental law	COO	Director of Estates and Facilities
	Research governance, including: Clinical research Research integrity International research security and compliance	COO	Director of Research and Innovation
	Intellectual property and copyright	COO (IP) CGO (copyright)	Director of Technology Transfer and QMI Director of Student Experience
	Interjurisdictional matters (e.g. in relation to partnerships)	CGO	Director of Governance and Legal Services
Health and Safety	Animal welfare	COO	Director of Biological Services
	<i>Treated separately</i>	COO (operations) CGO (monitoring)	Director of Estates and Facilities Director of Health and Safety
Information Governance	Freedom of Information Data Protection Computer misuse	CGO (information) COO (security)	Director of Governance and Legal Services Chief Information Officer

## Annex B – Indicative examples of specific legal compliance risks

14. The nature and scope of specific legal compliance risks is expected to be highly varied, reflecting to broad range of activities that Queen Mary engages in. Three indicative examples have been outlined below as the types of matters and engagement that might be anticipated.
15. ***Application of UK Export Control regime***
  - 15.1. The Joint Research Management Office (**JRMO**), Research Services, identified matters requiring further review in relation to the UK's Export Control regime, which restricts the export of certain materials or technologies from the UK. These matters were raised with DGLS, which worked with the JRMO to: articulate key issues for further investigation; brief counsel to obtain legal advice; and summarise practical steps resulting from that legal advice. Following on from that process, Legal Counsel is also involved with aspects of training being delivered to appropriate Queen Mary staff, and further review activities being undertaken by JRMO.
  - 15.2. The involvement of DGLS and Legal Counsel in this process allowed for: a more streamlined process for instructing external counsel, obtaining the necessary legal advice, and synthesising that advice into actionable takeaways; provision of internal advice for subsidiary legal issues as they arose; and strategic advice on appropriate next steps available to Queen Mary.
  - 15.3. Commercial takeaways from this process were: the benefits of maintaining a proactive compliance culture within the University that welcomes engagement with regulatory obligations; the benefits of early and measured raising of matters within the University; and the value of practical and clear training programmes for University staff.
16. ***Group litigation claim***
  - 16.1. DGLS has been engaging with external counsel, internal stakeholders, and Queen Mary's insurers to ensure that Queen Mary is well positioned in relation to group litigation threatened on behalf of Queen Mary students claiming disruptions to their studies stemming from industrial action and the COVID pandemic.
  - 16.2. This centralised coordination has helped allow Queen Mary to take a single, considered approach to the threatened litigation to best protect its interests, and ensure a fair and equitable process.
17. ***Queen Mary's engagement in India***
  - 17.1. As part of its standard control review function, DGLS identified a subsisting legal risk relating to Queen Mary's tax status in India. By engaging with external counsel, working with the relevant business units, and engaging with the Chief Governance Officer and University Secretary, DGLS ensured that the risk was identified, escalated appropriately, and effectively mitigated to bring it within the University's risk tolerance.
  - 17.2. Commercial takeaways from the process were: the importance of identifying and escalating potential structural risk issues early in the contracting process so they can be considered and mitigated by the University in a timely manner; and the value of open communication between teams to arrive at a pragmatic, agreed risk position that properly protects Queen Mary while facilitating its operations.