Minutes of the Forty-Eighth Meeting of the
Office for Legal Complaints Audit and Risk Committee
Wednesday 10 March 2021, by video call

Members Present:

Harindra Punchihewa, Chair

Annette Lovell

Rod Bulmer

In attendance

Elisabeth Davies, OLC Chair – observing

Paul McFadden, Chief Ombudsman

Sandra Strinati, Chief Operating Officer

Steve Pearson, Head of Complex Cases and Deputy Chief Ombudsman

Michael Letters, Head of Finance

Laura Stroppolo, Business Performance Manager

Alison Wedge, Ministry of Justice (items 1 to 7)

David Winks, Ministry of Justice (items 7 to 15)

Chris Davis, Government Internal Audit Agency

David Eagles, BDO, External Audit

Matthew Hill, CEO, Legal Services Board

Ella Firman, National Audit Office

Alex Moore, External Affairs Team Leader (item 6)

David Anderson, Head of IT and Information Governance (items 8 to 11)

Jack Sawbridge, Business Intelligence Manager (item 12)

Apologies:

Rebecca Hilsenrath

Alex Clarke, National Audit Office

Board Secretary:

Kay Kershaw

Item 1 – Welcome, Apologies and Preliminary Matters

1. The Chair welcomed those in attendance and reported that Rod Bulmer had been temporarily co-opted to the ARAC Committee because Rebecca Hilsenrath had temporarily stepped aside from OLC duties.

2. Apologies were noted.

3. The meeting was quorate.

4. There were no declarations of interest reported.

5. A private pre-meeting, attended by the OLC Chair, ARAC Members, GIAA and BDO had taken place.

Item 2 – Previous Minutes

6. The Committee **approved** the minutes of the meetings held on 23 November 2020 as an accurate record of the meeting.

Item 3 - Outstanding actions from previous meetings and matters arising

7. ARAC noted the update on actions arising from previous meetings. In discussion the following points were made:

   - Action 4 paragraph 32 arising from the November 2020 meeting is to be marked as completed. Discussions had taken place between the ARAC Chair and GIAA and the end of year assurance report was to be presented at the next ARAC meeting.

     ACTION: Board Secretary to close action 4, paragraph 32 arising from the November 2020 meeting.

   - Action 3 paragraph 7 arising from the June 2020 meeting is to be closed. This action, relating to the payroll tracker of LeO's previous payroll provider, was no longer relevant as payroll was now being undertaken in-house.

     ACTION: Board Secretary to close action 3, paragraph 7 arising from the June 2020 meeting.

   - Action 4, paragraph 17 of the June 2020 meeting is to remain open. Recognising that the completion of this action had been delayed due to workload capacity issues, the Chair stressed that an end of year provisioning policy for dealing with aged cases fees should be in place by the end of the financial year.

     ACTION: The Head of Finance to progress this action and ensure that an end of year provisioning policy was in place by the end of the financial year 2020/21.

   - Action 5, paragraph 50 arising from the May 2020 meeting is to remain open. This is because further queries were raised by Members in response to a report that had been issued out of committee on the position regarding the control environment around performance management. In discussion, it was **agreed** that clarity would

be sought from ARAC members outside of the meeting on the specific information to be presented in a revised report on the control environment around performance management. The revised report would be circulated to ARAC before the next meeting.

ACTION: The Head of Complex Cases and Deputy Chief Ombudsman to seek clarity from ARAC Members outside of the meeting on the specific information to be presented in a revised report on the control environment around performance management and issue a revised report to ARAC before the next meeting.

- Action 4, paragraph 18 arising from the March 2020 meeting is to be closed. This is because the Business Continuity Plan (BCP) is on the agenda for discussion at this meeting. Any new actions arising from discussions on the BCP at this meeting would be captured accordingly.

ACTION: Board Secretary to close action 4, paragraph 18 arising from the May 2020 meeting.

Item 4 – Risk Assurance Review

8. ARAC was updated on the progress that had been made since the last meeting in November and since the last update on strategic risks had been issued out of committee in December.

9. Since joining the organisation, the new CO and COO had supported the work on developing strategic risks. Most risk scores had reduced or had remained the same. ARAC's attention was drawn to the following key points:

- Strategic risk SO3 - coronavirus pandemic: This was the only risk score to increase. This was due to Covid uncertainty and Covid related issues affecting the General Enquiries Team (GET).

- Strategic risk SO1- resilience at a senior level: Proposals were being considered on building resilience in the senior team and for roles that were currently single points of failure. This included developing robust structures at levels beneath the Executive Team; developing the management team cohort; developing internal governance structures, and documenting processes and procedures within all functions of the organisation to reduce the pressure on the Executive Team.

- Strategic risk SO4 – inability to spend within the 2020/21 budget: The position on the forecasted underspend had changed from £20,000 to approximately £100,000. This was primarily due to delays in recruiting to key posts and delays in the amount of annual leave being carried forward by staff which had reduced the estimated year end accruals on holiday pay.

- Recruitment: A successful appointment had been made for a Risk Manager with a proposed start date of 29 March.

- Internal Audit actions: No Internal Audit actions had been closed since the last update had been provided to ARAC. The risk assurance report included updates against each of the outstanding actions, including a holding statement against the

actions arising from the Corporate Governance audit. Recognising the timing of the Corporate Governance audit and the developments that had taken place during the intervening period, it was felt that the audit findings no longer reflected the current position on Corporate Governance within the organisation. The Head of Complex Cases and Deputy Chief Ombudsman was keen to meet with GIAA to finalise the actions, close those that had already been completed and agree deadlines for the completion of the remaining actions.

10. Concerns were raised about the underspend and the implications of this, particularly in regard to the 2021/22 budget application to the LSB. In discussion the following key points were made:

- The LSB was keen to ensure that every effort was being made by LeO to reduce the underspend and to ensure that resources were being effectively deployed to deliver organisational objectives.

- The LSB advised that, when considering the OLC's 2021/22 budget application, it would expect the OLC to provide assurance that the current underspend was being effectively managed and that the OLC was making the best use of its current budget.

- External Audit reported that budgetary improvements had been made since last year when accruals for holiday pay hadn't been considered until after year end. However, recommendations were made for more proactive engagement with HR in the future considering the implications of holiday pay on the organisation's finances.

- Members commented on the criticality of the 2021/22 budget application on addressing the organisation's strategic risks.

11. The Executive confirmed that it would reflect on the feedback provided and would look to improve the information flow on this in the future; acknowledged that lessons had been learned and that they would look to implement additional controls on annual leave in future years. Other aspects of the underspend were being pro-actively managed; this included targeting overtime spend in operations.

12. The OLC Chair reported that the Executive had been asked to provide a report on the position regarding the underspend to the Board before its next meeting at the end of March.

ACTION: The Executive to provide a detailed report on the position regarding the underspend to the Board before its next meeting at the end of March.

13. The Chair sought clarity on the risk scoring for strategic risk SO6 – customer confidence in LeO's ability to provide redress. In response, the Chair was advised that the current risk score remained unchanged at 16, with a post mitigation score of 6. It was expected that, with the appointment of a Risk Manager, that mitigations would be put in place sooner than the timescale set out in the risk assurance report to reduce this risk score.

14. In discussion, ARAC **noted** the progress that had been made to date on improving the risk assurance framework and risk assurance report; the Chair thanked the Business Performance Manager for this work and commented on how the improvements had facilitated better discussions on risk at the meeting.

15. Some concerns were raised about the post mitigation scorings and gaps and inconsistencies within the current risk assurance framework that still needed to be addressed and the following feedback was provided on further improvements required to future Risk Assurance reports:

- Reports needed to be clear, up to date and reflect the true position.

- Updates on Internal Audit actions should be properly reported and should not include 'holding' statements.

- Timings for all actions should be stated to assist ARAC's understanding of the implications on short and longer term objectives.

- Information on risk appetite and the post mitigation risk score should be included in future reports.

- Strategic risks should be categorised under the following headings: financial, reputational, compliance and quality and people.

ACTION: The Business Planning Manager to note the feedback on further improvements required for the Risk Assurance report.

16. Acknowledging that further improvement of the risk assurance framework and reporting was required, ARAC was advised of discussions that were taking place with the Executive and Board to determine the strategic risks and risk appetite for 2021/22 and that links had been made with the MoJ risk network to provide further ongoing support to the organisation on risk. This had included a discussion with the MOJ Chief Risk Officer.

17. ARAC **noted** that risks associated with health and safety and GDPR were being managed under business unit risks.

18. The Business Planning Manager reported concerns about the current lack of capacity and capability to effectively manage Health and Safety within the organisation. Acknowledging that resource was an urgent issue to be addressed, the CO reported that he would be providing information to the Board ahead of the March meeting to update Members on planned and action being taken to address the gaps in posts.

19. In discussion, ARAC agreed the process for preparing the end of year update letter to the Permanent Secretary: A meeting was to be scheduled for the OLC Chair to meet the CO and Chair of ARAC to agree the key points to be included in this letter. Once drafted, the letter would be shared with ARAC and the Board in advance of it being issued to the Permanent Secretary.

ACTION: The OLC Chair to meet with the CO and Chair of ARAC to agree the key points to be included in the letter and share the draft letter with ARAC and the Board in advance of it being issued to the Permanent Secretary.

20. ARAC **noted** the update on the risk assurance.

Item 5 – Internal Audit Update

21. Internal Audit reported on the progress being made against the delivery of the 2020/21 Internal Audit plan. ARAC's attention was drawn to the impact of changes in management

and governance roles which had caused delays in processing some audits. Despite this, Internal Audit was confident that all planned audits would be completed by year end.

22. The Audit of Financial Management had progressed to the stage of a draft report being issued and was currently under discussion with the management. Internal audit was satisfied that the key financial risks were being managed through standard processes, accountability and appropriate oversight and that this represented an improved position within the last year. Final report will be issued for discussion at the next ARAC meeting.

23. Considering the audit on Corporate Governance, Internal Audit acknowledged that the audit findings reflected a period before the new CO and COO had joined the organisation and that things had since moved on. ARAC requested that the audit report was amended to clarify the timing of the audit and that the findings reflected a snapshot in time.

ACTION: Internal Audit to amend the Corporate Governance Audit to reflect the timing of the audit and that the findings reflected a snapshot in time.

24. Internal Audit explained that CO and COO had not been in post to provide a formal response to the Corporate Governance audit findings and so the audit report had been issued with holding responses. The CO confirmed that a formal Executive response was soon to be issued.

25. The Business Planning Manager reported that a Governance project that was soon to be launched to address the findings of the Corporate Governance Audit and improve the Governance framework.

26. In response to a query from the OLC Chair, Internal Audit explained that explicit reference to the Accounting Officer (AO) responsibilities had not been made in the Corporate Governance audit report because AO responsibilities were incorporated in the CO role. Further consideration would be given to whether the report should be amended to reflect this.

ACTION: Internal Audit to give further consideration to whether the Corporate Governance audit report should be amended to explicitly reflect Accounting Officer responsibilities.

27. The OLC Chair sought clarity on how Internal Audit had determined that the overall rating for the Corporate Governance audit. In response, Internal Audit explained that overall audit ratings were not calculated formulaically, and professional judgment was applied to determine overall audit ratings. Regarding the Corporate Governance audit, it was deemed that a limited rating would be appropriate.

28. Internal Audit presented the draft 2021/22 Internal Audit plan, advising that the CO and COO had agreed the plan and had acknowledged that it was likely to be revised over the year. Internal Audit was satisfied that the plan covered the risk areas and addressed the broad organisational requirements.

29. The Chair suggested that ARAC reviewed the 2021/22 Internal Audit plan outside of the meeting and provide further comments to Internal Audit and the Executive.

ACTION: ARAC to review the 2021/22 Internal Audit plan outside of the meeting and provide further comments to Internal Audit and the Executive.

30. ARAC **noted** the update from Internal Audit.

Item 6 – Annual Report and Accounts Update

31. ARAC was updated on the 2020/21 Annual Report and Accounts process, the following key points were **noted**:

   - The 2020/21 process would be undertaken in a project management style led by the Business Planning Manager. A Project Manager would be proving support for the financial audit.

   - A project risk register was in place.

   - Lessons learned from the 2019/20 process would be taken into account, along with any learning on best practice from other organisations.

   - Engagement the MoJ has commenced in December.

   - Regular progress meetings had been scheduled with the Executive.

   - The first draft of the remuneration tables had been completed and reconciliations were up to date and exit packages had been considered.

   - An initial meeting between the Head of Finance and the External Auditors had taken place. BDO had brought forward the date of the financial audit to 4 May and had introduced a new document sharing system which was working well. An end of year closure plan and a records required list had been agreed.

32. ARAC **noted** the update on the Annual Report and Accounts and the Chair confirmed that the Committee had assurance that the process for the 2020/21 Annual Report and Accounts was under control.

Item 7 - External Audit Update

33. External Audit reported on the findings of the interim financial audit, advising that the audit had gone well and Auditors had been grateful for the support received from LeO.

34. Reconciliations were up to date and were being addressed and the early sampling of items had been undertaken, evidence had been provided and queries were being dealt with. Some weakness of controls around credit card receipts had been identified but did not present a material risk because the values concerned were low. LeO was now taking action to strengthen controls accordingly.

35. The Chair of ARAC advised that he would be recommending a focus on financial controls as part of the 2021/22 Internal Audit plan to be undertaken collaboratively to ensure that there was no duplication of work for Internal and External Auditors.

36. Considering the Annual Report and Accounts timeline, External Audit suggested that more granular detail regarding accounts closed at the production point should be included.

ACTION: The Business Performance Manager to update the Annual Report and Accounts timeline to include more granular detail regarding accounts closed at the production point.

37. External Auditors sought clarity on whether the first draft of the Annual Report would have been through Board level quality control by the time it was presented in early May, explaining that this level of quality control would be required at the beginning of the audit so that Auditors could review the accounts and the front end of the report at the same time.

38. In response, the Business Planning Manager **agreed** to meet with External Auditors outside of the meeting to discuss the timings and provide more detail on the overarching project plan for the Annual Report and Accounts with a view to providing more clarity and assurance to Auditors.

   ACTION: The Business Planning Manager to meet with External Auditors outside of the meeting to discuss the timings and provide more detail set on the overarching project plan for the Annual Report and Accounts

39. External Auditors confirmed that there was no timing risk regarding the sign off the accounts and therefore the Annual Report and Accounts should be laid before parliamentary recess.

40. Regarding the External Audit plan, the Committee was advised that:

   - One additional significant risk had been identified regarding the accounts production process.

   - The remuneration report would be an area of audit focus.

   - The leasing standard IFRS 16 would be introduced in 2022/23, with quantitative disclosures required in the 2021/22 financial statements.

   - The planned audit fee was £40,000. This includes the costs associated with the management letter issued in 2020 and the additional work required for IRFS16.

41. Having considered External Audit's assessment of the risks of material misstatement to the financial statements and whether the management's response to those risks was adequate and ARAC **confirmed** that it was content that the assessment of risks was complete and that the managements response had been adequate.

42. ARAC **noted** that the risks on revenue recognition had been rebutted because of the way the legal ombudsman received its income which was considered not to be significantly manipulable.

43. ARAC **confirmed** the proposed audit plan.

44. In response to External Audit's request for ARAC to confirm whether the financial statements could be materially misstated due to fraud, the ARAC Chair stated that the Committee would provide confirmation to the management and the audit team of whether it had any knowledge of any actual, alleged or suspected fraud or any other areas of concern to report after the year end.

   ACTION: ARAC to confirm to External Audit whether it had any knowledge of any actual, alleged or suspected fraud or any other areas of concern after the year end.

45. External Audit confirmed that the Audit Completion Report, which would include full details of any issues found, would be presented at the ARAC meeting on 1 July for consideration alongside the final accounts for sign off. If time permitted, the Management Letter would

be included in the Audit Completion Report however, if there was a substantial number of issues found during the audit, the finalised version of the Management Letter would be presented at a later ARAC meeting.

46. ARAC **noted** the update from External Audit.

Item 8 – Information Rights and Security Incidents

47. The Head of IT and Information Governance presented a paper on information rights and security incidents during Q3 and the first half of Q4 which included an annual review of both incidents and requests. ARAC's attention was drawn to the following key points:

- Security incidents remained steady, with similar themes to previous quarters.

- A benchmarking exercise confirmed that the number of incidents was comparable to other organisations within the sector.

- A brief dip in the number of incidents had been seen in Q1, raising concern at the time that there may have been an under-reporting of incidents by staff working from home. Further training and guidance had been rolled out to staff and the number of incidents reported in subsequent quarters returned to expected levels.

- A successful phishing attack had been seen in Q3. No customer information had been lost. Phishing attacks had previously been identified as a significant risk and work was being undertaken to introduce new systems at the time of the attack to mitigate the risk. This work has now been completed.

- There had been no physical security risks. Physical security barriers were now in place preventing unauthorised access to the building.

- Incorrect recipient and incorrect email address continued to be the main reasons for data security incidents, but numbers were low, at 32 out of a total of 150,000 communications.

- The number of overall incidents had reduced steadily over the last three years, indicating that actions taken to date have been effective.

- The focus of activities in 2021/22 would be on working with Information Asset Owners to further reduce the number of incidents.

48. Responding to a query raised by the ARAC Chair about the timing and completion of mandatory cyber security training, the Head of IT and Information Governance **agreed** to update the ARAC report to make it clear that the cyber security training had been rolled out to staff throughout the year. The Head of Finance clarified that the majority of training had taken place in Q3 and the deadline of Q4 specified in the report had been set specifically to ensure that new starters and staff on long term sick leave had completed their training before year end.

ACTION: The Head of IT and Information Governance to amend the Home Working Cyber Security strategy paper to reflect that the cyber security training had been undertaken earlier than Q4.

49. ARAC was advised that intelligent network monitoring was planned for Q1 of 2021/22.

50. ARAC **noted** that the number of incidents relating to incorrect recipient and incorrect email address were low and was pleased to see that that the overall number of incidents had reduced year on year.

51. Clarity was sought on whether the number of incidents reported in Q3 may have indicated that reporting was 'catching up' after a period of potential under-reporting in Q1. In response, the Head of IT and Information Governance confirmed that further investigation of the number of incidents reported in Q1 had not shown any evidence of any under-reporting and the numbers reported reflected what had actually happened.

52. ARAC **noted** the update on information rights and security incidents.

Item 9 – Annual Cyber Security Policy Framework self-assessment

53. The Head of IT and Information Governance reported on the findings of the annual cyber security policy framework self-assessment and the improvements that had since been put in place, which included:

- Ensuring that patching and security on equipment and cloud-based infrastructure was up to date and that future updates had been scheduled.

- Improving the process for allocating permissions to joiners and starters to ensure that they were appropriate.

- Updating procedures to keep information up to date.

- Improving password policies.

54. ARAC **noted** that three actions arising from this self-assessment remained in progress: two related to system improvements, the other to rehearsals for business continuity measures. The Chair requested that an assurance report on the business continuity rehearsals was presented at the next meeting .

ACTION: The Head of IT and Information Governance to present an assurance report on the business continuity rehearsals at the next ARAC meeting.

ACTION: The Board Secretary to update the ARAC forward plan accordingly.

55. The Chair advised that he would be speaking with Internal Auditors outside of the meeting to discuss undertaking a review of cyber security later in the year.

56. ARAC **noted** the Annual Cyber Security policy framework self- assessment.

Item 10 – Update on the Better Records and Information Management project deliverables

57. The Head of IT and Information Governance updated ARAC on the progress being made on the Better Record and Information (BRIM) project, advising that the project had been split into two phases: phase one, focused on SharePoint stores and the remaining actions from the ICO audit and phase two focussed on other sources of data. Phase one of the project was underway and progressing in line with the project plan.

58. ARAC **noted** that the risks associated with loss the Records Management Officer post and the gaps in the provision of Information Asset Owners. To mitigate these risks, additional Information Asset Owners had been appointed and additional training was being provided to staff on records management.

59. The Chair was keen to understand whether there were any risks perceived that could impact on delivering the project within the timescales. In response, the Head of IT and Information Governance advised that the risk mitigations now in place should ensure that the project was delivered on time.

60. The Chair sought confirmation that a robust process would be put in place to ensure that when Information Asset Owners left the organisation they were replaced. In response, the Head of IT and Information Governance confirmed that this was included as part of the planned mitigations.

61. In response to a request from the Chair, the CO **agreed** to provide a report to ARAC at a future meeting setting out the percentage of staff that had completed mandatory Data protection training.

    ACTION: The CO to provide a report to ARAC at a future meeting setting out the percentage of staff that had completed mandatory Data protection training.

    ACTION: Board Secretary to update the ARAC forward plan accordingly.

62. ARAC noted the **update** on the BRIM project.

Item 11 –Review of the Business Continuity Plan

63. Having invoked the Business Continuity Plan (BCP) at the start of the pandemic in 2020 it had become evident that there were some areas of weakness. A decision was therefore made to postpone the 2020 annual review of the BCP to allow time for the learning from the invocation of the BCP to be properly considered and incorporated into a revised BCP.

64. The Head of IT and Information Governance updated ARAC on the progress that had been made on revising the BCP. This had included seeking guidance from the MoJ; re-drafting key BCP documents; identifying the roles necessary to deal with an emergency response; ensuring that appropriate contacts were in place for key stakeholders; identifying realistic scenarios that LeO might have to deal with in the future, and running lessons learned workshops.

65. All new BCP documents had now been drafted and were to be tested though desktop rehearsals in March and April, after which the BCP documents would be updated taking into account the lessons learned from Covid and any recommendations from the rehearsals.

66. The Business Planning Manager reported on the key findings from the Covid lessons learned, advising that:

    - The standardised project management approach had been successful, ensuring that centralised records, including communications and actions logs were maintained.

    - Communications with staff and Heads of department hard worked well.

- The ability to continue to provide a service to customers and engage with stakeholders throughout the pandemic had been a significant achievement.

- Improvements had been identified to ensure that Command Team had better engagement with Communications Officer.

- Improvements had been identified regarding the provision and tracking of specialist DSE equipment.

- Improvements had been identified regarding Board reporting. During the pandemic, the Board received regular operational updates, but little had been reported on the work being undertaken by corporate services.

67. A discussion took place about the need to ensure that LeO had a post Covid transition plan. ARAC was advised that post Covid planning was underway, and that consideration was being given to the re-opening the office and future ways of working.

68. ARAC **noted** the update on the review of the BCP.

Item 12 – Annual Data Assurance Report

69. The Business Intelligence Manager reported on the progress made over the last two years on data assurance, drawing ARAC's attention to the following key points:

- Work had been undertaken to improve the collection and storage of data. Data was now stored in an IT data warehouse, ensuring a single source of truth for most of LeO's data. The data warehouse would be extended to include more data sources in the future.

- Improved data storage has enabled LeO to start using Power BI as its data reporting tool.

- Work was being undertaken to review how data was collected with a view to ensuring its quality and integrity. Exception reporting was in place and any issues identified by exception were being addressed.

- Work to improve the auditing of data had been undertaken.

- An audit of data fields took place in June 2020;this provides a baseline measure to track data quality. A second audit was planned for 3 months' time. The findings would show whether there had been any changes in data quality and feedback would be provided to staff accordingly

- Plans were in place to extend the scope of data assurance work in 2021/22.

70. In discussion, ARAC was advised that the data users received was of a high standard, but more work was to be done from an operational perspective to interpret the data and use it to drive the business and target specific actions in order to better support the customer journey. Additionally, further work was required to ensure that staff understood the importance of ensuing that the data they captured was of a high quality.

71. ARAC was advised that data security and controls were in place and managed by the IT team.

72. ARAC had been pleased with the progress that had been made on data assurance and **noted** the update that had been provided.

Item 13 – ARAC Terms of Reference

73. The Chair reported that a draft of the revised ARAC Terms of Reference (ToRs) had been shared with ARAC Members for comment.

74. The revised ToRs would also be shared with Internal and External Auditors for comment before being presented to the OLC Board for approval at the March Board meeting.

ACTION: Board Secretary to add ARAC ToRs for the Board forward plan for the March meeting.

Item 14 – Attestations and Single Tenders Report

75. The Head of Finance reported on two items that had been attested for that in the period between November 2020 and February 2021, advising that due to the size of LeO it was not always possible to use the Framework and that the organisation was actively looking to reduce the number of single tenders.

76. In discussion ARAC was advised that IR35 was not applicable to LeO as the organisation did not have any temporary staff paid directly. All temporary staff are on LeO payroll or via agencies where they are subject to PAYE and NI.

77. ARAC **noted** the Attestations and Single Tenders report covering the period November 2020 to February 2021.

Item 15 - Any other Business

78. The CO reported on the resignation of the Business Intelligence Manager. A further update on plans to recruit would be provided at the March Board meeting.