

**Minutes of the 57th Meeting of the
Office for Legal Complaints Audit and Risk Committee
Monday 16 January, via Teams**

Members Present:

Harindra Punchihewa, Chair

Alison Sansome

Annette Lovell

Martin Spencer

Board Secretary

Kay Kershaw

In Attendance:

Elisabeth Davies, OLC Chair – observing.

Paul McFadden, Chief Ombudsman

Laura Stroppolo, Head of Programme Management and Assurance

Michael Letters, Head of Finance

David Peckham, Head of Operations, Business Information and Business Transformation

Shazia Wahid, Programme Manager – staff observer

Marie Miranda, Enterprise Risk Manager (item 5)

Luke Hutcheson, Business Intelligence Manager (items 5,10 and 13)

Nawal Henry, Health and Safety and Facilities Officer (item 15)

External Attendees

Ella Firman, National Audit Office

Rebecca Palmer, Deloitte

David Winks, MoJ, ALB Centre of Excellence – observing.

Jorjie Woodroffe, Government Internal Audit Agency

Margie McCrone, Head of Strategy and Policy, LSB – observing.

Apologies:

Matt Ellis, Government Internal Audit Agency

Alex Clarke, National Audit Office

Matthew Hill, CEO, Legal Services Board

Item 1 – Private meeting with Auditors

1. Members had attended a positive meeting with Internal and External Auditors. Auditors acknowledged the improvements and progress that had been made under the leadership of the Executive Team.

Item 2 - Welcome, Apologies and Declarations of Interest

2. The Chair welcomed attendees to the meeting.
3. Apologies were noted.
4. The meeting was quorate.
5. There were no declarations of interest reported.

Item 3 - Previous Minutes

6. The ARAC **approved** the minutes of the ARAC meeting that took place on 3 October 2022 as a true and accurate record of the meeting.

Item 4 – Previous Actions and Matters Arising

7. Action 4, paragraph 11 from the October 2022 ARAC meeting: This action was to remain open until an evaluation of the impact of audit actions had been completed.
8. Actions 13, paragraph 51 from the October 2022 ARAC meeting: These actions were to be closed, recognising that recommendations areas of deep dives and ways to improve ARAC effectiveness could be made at any time. Deep dives would be undertaken twice-yearly in May and October and the ARAC forward plan would be updated accordingly.

ACTION: Board Secretary to close actions 13, paragraph 51.

ACTION: The Board Secretary to add the deep dive schedule, once finalised, to the ARAC forward plan.

9. ARAC **noted** the update on previous actions.

Item 5 – Risk Assurance

10. The Head of Programme Management and Assurance (HoPM&A) presented the Risk Assurance Report in Power BI, drawing ARAC's attention to the following points:
 - Phase one of the Power BI ARAC dashboard had been completed and was now accessible to all ARAC members. Work had commenced on phase two; this would incorporate information on risk appetite, tolerances and RAG status into the ARAC dashboard.
 - Work had commenced to link risks to data and to challenge the effectiveness of mitigations, as part of the Business Performance Reviews. Further information on this would be presented to ARAC in Q1 of 2023/24.

- Having reviewed the Strategic Risk Register in December, the Executive had made changes to some of the scores for strategic risks and issues to reflect a more accurate assessment.
- Strategic Issue SI01 (Pre-Assessment Pool): The score for this issue had increased from 12 to 16 to reflect the probability that year-end projections would not be met due to the downturn in FET performance and recruitment falling short of expectations. The ongoing recruitment and retention challenges were known by the MoJ to be outside of LeO's control. The score for this strategic issue was within the amber tolerance, against a cautious risk appetite statement.
- Strategic Risk SR01 (Performance): This risk score had also increased from 12 to 16 to reflect the likelihood of year-end performance targets not being met due to higher-than-expected attrition, an increase in reallocations because of attrition, lower established Investigator productivity and lower Grad Bay ramp up. Two of the four tolerance measures were within the red tolerance, against a cautious risk appetite. Seven new mitigating actions had been introduced to address the performance variation.
- The Performance and Quality Task and Finish Group had tested a revised set of projections to identify what a realistic year end position would be. The revised forecasts and trajectories would be presented to the Board in January.
- Strategic Risk SR02 (Managing Transformational Change): This risk score had reduced from 9 to 4 following the publication of change management guidance to staff in line with an internal audit action. This score was within tolerance. Quarterly business plan updates to staff remained on track and the Q3 update would be issued to staff and Board at the end of January.
- Strategic Risk SR06 (Budget Variation): This risk score had reduced from 12 to 8 in line with proactive measures that had been put in place to reduce the underspend, including bringing forward planned recruitment activity to Q4.
- Risks continued to be monitored at monthly business performance review meetings. The number of risks had increased since the start of the year because of the improvements that had been made in managing and embedding risk across the organisation. Business Unit risks were now being escalated to the Executive Team each month.
- The risk related actions arising from the ARAC effectiveness review were on track for completion within the agreed timescales.
- The six low recommendations from the Risk Management audit that were being tracked internally.
- There were sixteen overdue internal audit actions. Most related to actions arising from the audits of Payroll and Recruitment. The completion of these actions had been delayed because the Senior HR Services Business Partner had joined LeO later than originally planned. A review of payroll and the recruitment policy was underway and a review of the associated recruitment process would commence shortly.
- The Risk Manager had undertaken testing to ensure that internal audit recommendations and actions had been adequately fulfilled; this would support

quarterly updates to GIAA to monitor the audit recommendations action tracker as part of their third line of defence review .

11. In response to a question, ARAC was advised that a full suite of risk tolerance data, in line with the risk themes set out in the Orange Book, would be added to the ARAC dashboard as part of phase two of its development.
12. ARAC was keen to understand which of the overdue internal audit actions were of most concern to the Executive and whether any of these overdue actions had been unexpected. In response the following points were made:
 - The actions associated with the Financial Management audit were long overdue. Their completion was dependent on information being shared by the MoJ about procurement. The Executive was keen to close these actions as soon as possible and was pursuing the information from the MoJ.
 - The action associated with the Change and Transformation audit had been delayed because of capacity issues resulting from a vacancy for a Project Manager. The completion date for this action had been revised and was now more realistic.
13. Having sought to understand the reasons behind the decision to increase the scores for SI01 and SR01, the ARAC Chair was advised that the decision had been made in response to the change in the forecast year end position for performance. SI01 and SR01 were closely monitored by the Executive and, when the latest performance had moved outside of tolerance, the decision was made to increase these scores. New mitigating actions, discussed with the Performance and Quality Task and Finish Group and the OLC Board, were in place to address this.
14. In response to a question about how risk culture was being embedded across LeO, ARAC was advised that:
 - Risk culture was on track for being well embedded across LeO.
 - All new starters took part in a risk induction session and are required to read the Risk Policy.
 - Line Managers were embedding the Risk Policy across their teams.
 - The Risk Manager had an improvement action plan in place, as part of this, lunch and learn sessions on risk management were being considered.
15. ARAC thanked the HoPM&A for the clarity of their risk assurance report and commented on the progress in risk management and assurance that had been seen over the last year.
16. Following discussion, ARAC **noted** the risk assurance report.

Item 6 – Internal Audit update

17. GIAA updated ARAC on the progress being made on delivering the 2022/23 Internal Audit Plan. The following key points were made:

- The delivery of 2022/23 Internal Audit plan was on track, with 60% of the work completed.
- The Service Complaints and Performance Management Framework audits were in the fieldwork stage. Final audit reports were expected to be presented to ARAC in May.
- The audit of Information Assurance and GDPR had received a limited assurance opinion. Five medium priority recommendations and four low priority recommendations had been made.
- The audit of Risk Management had received a moderate assurance opinion. Six low priority recommendations had been made. Significant improvements had been seen in Risk Management since this area was last audited in 2020/21.

18. In discussion about the audit of Information Assurance and GDPR, and in response to members' questions, the following points were made:

- The recommendations made by GIAA mainly related to improving the governance processes in place for the Security Forum and ensuring that it was accountable and effective and underpinned by consistent and appropriate guidance.
- Work was in hand to address the recommendations; clarity had been sought from the MoJ regarding the requirement to add security classification ratings to the Information Asset Register and Deputy and Assistant Information Asset Owners had been appointed where applicable.
- Significant testing of near misses, incidents and data breaches had fallen outside the scope of this audit, which had focussed on the governance processes in place and overarching risk. However, regular reports were presented to ARAC on data breaches and the Executive was confident that the significance of near misses, incidents and data breaches was not missed.
- A review of the robustness of governance controls would be undertaken in line with the audit action plan; the findings would be presented to ARAC in due course.

19. The ARAC Chair sought to understand whether the moderate assurance opinion for the Risk Management audit fell within the lower or upper end of the moderate range. Cautioning against complacency, GIAA commented positively about the marked improvement seen in Risk Management, including evidence of exemplary practice seen in areas including Assurance Mapping. The number of low priority recommendations had underpinned the moderate assurance opinion.

20. Reflecting on the nuanced assessment of audit ratings and how the narrative of audit reports often provided a truer reflection of the overall position, the OLC Chair asked what conclusions could be taken from audit ratings received so far in terms of GIAA's final audit opinion for 2022/23. GIAA explained that it would be too early to comment on this but stated that the lack of high priority recommendations was positive.

21. ARAC considered a draft Internal Audit Plan for 2023/24, which had been developed in discussion with the Executive and set out the proposed timings for six audit engagements linked to specific areas of risk.

22. Members questioned the proposed timing of the Casework Quality audit, suggesting that this should be undertaken earlier in the year so that any issues adversely impacting operational performance could be addressed as soon as possible. The Chief Ombudsman (CO) and GIAA would give this further consideration and update the ARAC Chair accordingly.

ACTION: The Chief Ombudsman and GIAA to consider bringing forward the timing of the Casework Quality audit and update the ARAC Chair accordingly.

23. The ARAC Chair stated that no changes should be made to the timing of the Grievances and Staff Complaints planned for Q2.

24. Reflecting on how most audits focussed on compliance and process, the OLC Chair sought to understand how GIAA would add most value to the audit of Reputation – Stakeholder Engagement planned for Q3. Acknowledging the sensitivities associated with this audit, GIAA reported that the Terms of Reference would take account the OLC Board’s perspective and would clearly set out the scope of the audit. An element of benchmarking against similar organisations was likely to be included to determine what good looked like.

25. The final Internal Audit Plan for 2023/24 would be submitted to ARAC for approval in May.

26. ARAC **noted** the Internal Audit update, commenting on the willingness of the Executive to engage with audit recommendations.

Item 7 – External Audit update

27. External Auditors presented the preliminary External Audit Plan for 2022/23. In discussion the following points were made:

- Changes had been made to the risk assessment procedures in line with the revised ISA 315.
- The new auditing standard ISA (UK) 240 required more new and prescribed enquiries to be made in relation to fraud.
- There was a reduced timetable in place for the completion of the 2022/23 Financial Audit.
- Walkthroughs had been undertaken with the Finance Team in December.
- One significant risk relating to management override was identified; a work plan had been put in place in response to this.
- Auditors planned to continue to report on IFRS 16.
- All points raised in previous Management Letters relating to accounts production had been addressed therefore there were no plans to report against accounts production in the 2022/23 unless any specific issues were identified as part of the audit.
- Materiality was set at £306k with a reporting threshold of £6k.

- The audit fee had increased to £42k; this increase was driven by inflation and an increase in regulatory focus.
 - Auditors would continue to report on accounting for leases under IFRS 16.
28. In response to an enquiry by Auditors, the ARAC Chair **confirmed** that the Committee was content with the Auditors' assessment of risk, subject to the key accounting checks being undertaken, particularly those relating to journals and the authorisation of approvals.
29. In response to an enquiry by Auditors, ARAC members **confirmed** that that they were not aware of any actual, suspected or alleged fraud.
30. ARAC **noted** the External Audit update.

Item 8 – Annual Report and Accounts

31. Lessons learned from the 2021/22 Annual Report and Accounts process had been shared with the OLC Board in October. The OLC Board had asked the Executive to consider reporting on Social Mobility and Environmental Social and Governance Reporting in the 2022/23 Annual Report and Accounts.
32. Planning for the 2022/23 Annual Report and Accounts was underway. Meetings had taken place with Auditors in December to discuss the timetable and to ensure that the Annual Report and Accounts would be finalised in time to be laid in Parliament before the end of June.
33. Considering the constrained timetable, feedback on the messaging, tone and structure of the Annual Report would be sought at the Board's workshop in February so that the drafting of the report could start as early as possible. The Finance Team aimed to have as much information as possible prepared and available for Auditors in advance of the Financial Audit commencing.
34. In line with the action from the 2021/22 Management Letter, data templates were being created for front end data to aid quality assurance.
35. The ARAC Chair was keen to ensure that both ARAC and Board had sufficient time to review and provide feedback on the Annual Report and Accounts and was advised that a draft of the accounts would be presented to ARAC at its meeting in May. Discussions would be taking place with the OLC Chair to determine the best way of ensuring that the Board had sufficient time to also review and feedback on the Annual Report.
36. The ARAC Chair asked the Executive to ensure that ARAC and the Board were notified of any issues that would prevent the delivery of the timetable for the Annual Report and Accounts.
- ACTION: The Executive to notify ARAC and the Board of any issues that would prevent the delivery of the timetable for the Annual Report and Accounts.**
37. ARAC **noted** the update on the Annual Report and Accounts.

Item 9 – Financial Governance

38. ARAC **approved** the Financial Governance Framework that had been developed in line with a low priority recommendation from the Internal Audit on Financial Management.
39. The ARAC Chair sought to understand the controls in place to manage access levels to key financial data and processes and was advised that controls built into LeO's financial systems ensured that only authorised staff had access to this information. The Financial Governance Framework sets out the authorisation levels and delegated authorities, including who can authorise purchase orders, but did not set out the controls in place to prevent unauthorised staff trying to access financial systems and processes.
40. The ARAC Chair questioned how the Financial Governance Framework would be applied to ensure that LeO's budget remained within the MoJ's 1% budget tolerance level. The Head of Finance **agreed** to reflect on this and report back to the ARAC Chair accordingly.

ACTION: The Head of Finance to reflect on how the Financial Governance Framework would be applied to ensure that LeO's budget remained within the MoJ's 1% budget tolerance level and to report back to the ARAC Chair accordingly.

41. The Head of Finance explained that due to the timing of this ARAC meeting, a full budget update had not been provided; this information would be provided at the January Board meeting.
42. ARAC's attention was drawn to an increase in the underspend that had been driven by unexpected changes in the number of new starters; staff leaving with immediate effect in January, and an increase in maternity leave. The Executive would be meeting to verify the underspend position, which was expected to be approximately £180k, and to consider the mitigating actions.
43. The ARAC Chair requested that budget updates were provided to ARAC at every meeting even if the full management accounts had not been completed at the time of reporting.

ACTION: The Head of Finance to ensure that a full budget update was provided to ARAC at all meetings.

44. A detailed discussion on the budgetary position would take place at the January Board meeting and would include details of the mitigating actions to be taken to try and bring the underspend back within tolerance.
45. ARAC **noted** the update on financial Governance.

Item 10 – Budget Setting Assurance

46. ARAC considered a report setting out the measures undertaken to prepare for the 2023/24 Budget and Business Plan submission.
47. Reflecting on the Budget Setting Assurance Criterion 5, the ARAC Chair commented on how the way input data was used would have an impact on the accuracy of the output data relating to forecasts. Considering this, the Executive was asked to ensure that the

accuracy of the calculations and formulas used to determine both the input and output data was checked as part of the preparatory work being undertaken ahead of the 2023/24 Budget and Business Plan submission to the LSB and to ensure that this was reflected in the Budget Setting Assurance document.

ACTION: The Executive to ensure that the accuracy of the calculations and formulas used to determine both the input and output data was checked as part of the preparatory work being undertaken ahead of the 2023/24 Budget and Business Plan submission to the LSB and to ensure that this was reflected in the Budget Setting Assurance document.

48. The Chair of the Performance and Quality Task and Finish Group (P&Q Group) reported that the P&Q Group had met twice over the last few months to undertake a detailed review of the assumptions and the basis for forecasting best, worst and likely case scenarios. ARAC was advised that a reasonable amount of assurance could be taken from the reviews and processes in place for checking the assumptions underpinning the 2023/24 Budget and Business Plan which had taken into consideration the impact of variations in output resulting from changes to the key assumptions.

49. The ARAC Chair asked the Executive to evaluate how some of the key variables could impact on the best, worst and likely case forecast scenarios and to reflect this in the Budget Setting Assurance document.

ACTION: The Executive to evaluate how some of the key variables could have an impact on the best, worst and likely case forecast scenarios and to reflect this in the Budget Setting Assurance document.

50. ARAC **noted** the update on Budget Setting Assurance for 2023/24.

Item 11 – Attestations and Single Tenders Report

51. ARAC **noted** that the Executive had no attestations or single tenders to report.

Item 12 – Counter Fraud Plan

52. The Head of Finance reported that:

- An action plan had been developed to ensure that counter fraud activities were regularly reviewed and updated to ensure that mitigations remained relevant and adequate.
- LeO currently worked under the wider MoJ counter fraud strategy but would be developing its own strategy to specifically meet the needs of the organisation; this would be shared with ARAC in due course.

53. ARAC **noted** the update on the counter fraud plan.

Item 13 - Annual Data Assurance Report

54. The Business Intelligence Manager presented a paper setting out the new process for transferring data from the data source into Power BI, explaining how the data was checked at each stage of the process to ensure quality and how this would ensure the accuracy of reporting to LeO's stakeholders.
55. ARAC **noted** the report on data assurance, commenting on how it provided assurance on the processes in place to ensure data accuracy.

Item 14 – Information Rights and Security Incidents Report

56. The Head of Finance presented the Information Rights and Security Incidents Report, drawing ARAC's attention to the following points:
- An increase in the number of security incidents had been seen in Q2, with similar themes to previous quarters.
 - Ninety two percent of staff had completed the mandatory security and data protection training. Five members of staff were being chased to complete this training, the remaining seventeen staff were out of the business on sick leave or maternity leave and would be required to complete the training on their return to work.
57. ARAC had been pleased with the rate of compliance with mandatory training but stressed that it would be important to ensure that follow up action was being taken with the five individuals who had not complied.
58. ARAC noted that the number of security incidents remained low considering the overall volume of emails handled by the organisation, but encouraged the Executive to consider alternative mitigating actions that could help to reduce the number of security incidents.
59. Considering that remedial action was mostly taken in response to an individual incident, it was suggested that a better approach might be to introduce a remedial action targeted at the cause of an incident. It was suggested that organisational wide reminders about the steps staff should take to prevent security incidents and information shared on lessons learned could also help to prevent security incidents. The Head of Finance **agreed** to feedback on this to the Security Forum.

ACTION: The Head of Finance to feedback on ARAC's suggestions for alternative mitigating actions to reduce the number of security incidents to the Security Forum.

60. A comment was made about how it would not be unreasonable to expect to see an increase of Subject Access Requests and Freedom of Information requests in line with the increased number of case closures.
61. ARAC **noted** the Information Rights and Security Incidents Report.

Item 15 – Annual Health and Safety Compliance Report

62. Health and Safety and Facilities Officer continued to make a positive impact on all matters relating to Health and Safety and Facilities.
63. All Health and Safety policies and related documents were up to date. The Compliance Manual had been updated to provide additional security advice to staff following a site intrusion.
64. Communications had been issued to staff raise their awareness of the site intrusion and the action to be taken to keep safe when on working on site.
65. The Annual Health and Safety audit score was 99.2%, a 1.4% increase on the score for 2020/21.
66. The awareness raising events that took place as part of the Health, Safety and Wellbeing Month in October had been well received by staff.
67. Engagement, with support of the Legal Team, continues to take place with the Landlord regarding some building issues.
68. ARAC **noted** the annual Health and Safety Compliance report and the progress that had been made.

Item 16 – Feedback from external attendees on the meeting

69. External attendees provided feedback on the meeting. The following points were made:
 - The quality of reports and discussions at ARAC meetings had improved and demonstrated that the OLC had robust systems of assurance and corporate governance.
 - During the meeting, there had been some good challenges around financial tolerance and the timings of internal audit timings and there had been a good level of scrutiny on risk. Attendees had been reassured to note that the LSB's feedback on the year-end position had been fed into the meeting.
 - The introduction of Power BI reporting linked to risk and supported by an accompanying narrative was seen to be a positive improvement; this was not seen across other ALBs.

Item 17 - Any Other Business

70. Recognising that this was Annette Lovell's last ARAC meeting before her term of office as an OLC Board member ended in March, the ARAC Chair, on behalf of the Committee and ARAC attendees, thanked her for her commitment and contribution to ARAC and wished her well for the future.