Minutes of the 52nd Meeting of the

Office for Legal Complaints Audit and Risk Committee

Monday 10 January 2022

Members Present:

Harindra Punchihewa, Chair

Alison Sansome

Martin Spencer

In Attendance:

Elisabeth Davies, OLC Chair – observing

Paul McFadden, Chief Ombudsman

Michael Letters, Head of Finance

Laura Stroppolo, Head of Programme Management and Assurance

Sandra Strinati, Chief Operating Officer (item 4)

David Anderson, Head of IT (items 12 and 13)

Luke Hutcheson, Performance & BI Manager (item 9)

External Attendees:

Matthew Hill, CEO, Legal Services Board – observing

Ella Firman, National Audit Office

Rebecca Palmer, Deloitte

Jorjie Woodroffe, Government Internal Audit Agency

Juan Garzon, Business Partner, Ministry of Justice

Apologies:

Annette Lovell

Kay Kershaw

Alison Wedge, Ministry of Justice

Alex Clark, National Audit Office

Matthew Ellis, Government Internal Audit Agency

Minutes

Michelle Hitchman / Kay Kershaw

Item 1 - Welcome, Apologies and Declarations of Interest

1. The Chair welcomed all those in attendance.

2. Apologies were noted.

3. The meeting was quorate.

4. There were no declarations of interest reported.

Item 2 - Previous Minutes

5. In response to a query raised, it was **agreed** that, subject to clarification by the CO, paragraph 42 of the October ARAC minutes should be amended to reference that alternative protocols to break the cycle of the budgetary underspend would be considered at the January Board, not the October Board meeting.

6. Subject to this amendment, the minutes of the ARAC meeting held on the 6 October 2021 were approved as an accurate record of the meeting.

Action: CO to clarify whether paragraph 42 of the October ARAC minutes should be amended to reference that alternative protocols to break the cycle of the budgetary underspend would be considered at the January Board meeting, not the October Board meeting.

Item 3 – Previous Actions

7. ARAC **noted** the updates on previous actions that were set out in the Previous Actions paper.

8. Verbal updates were provided on the following actions:

Item 5, paragraph 23 from the October meeting: The Chair confirmed that MoJ's core Internal Audit plan was comprehensive, noting that some elements of the plan may not be directly relevant for the OLC.

The Executive was asked to review the plan to identify anything that was not relevant to the OLC and to feedback via email to the ARAC Chair and GIAA ahead of their follow up meeting next week.

ACTION: The Executive to review the MoJ's core Internal Audit plan to identify anything that was not relevant to the OLC and feedback via email to the ARAC Chair and GIAA ahead of their meeting next week.

Item 7, paragraph 30 from the October meeting: NAO had provided the Executive with an updated paper reflecting the agreed changes to risk rating for each of the recommendations set out in the 2020/21 Management Letter. As this paper had not been circulated to ARAC ahead of the meeting, NAO agreed to provide a verbal update as part of agenda item 6.

Item 7, paragraph 31 from the October meeting: The ARAC forward plan had been updated to reflect that a formal response to the 2020/21 Management Letter would be provided at ARAC's January meeting.

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

Item 4 – Risk Assurance Review

10. ARAC considered a detailed paper setting out the latest position on strategic risks and issues, and an update on audit actions.

11. Head of Performance Management and Assurance (Head of PM&A) drew ARAC's attention to the following key points:

- The Risk Manager had left LeO in November 2021. Recruitment was underway to fill this vacancy, but despite continued efforts the role remained vacant. The Head of PM&A was covering the role with support from risk owners and support was being sought from recruitment agencies listed on the MoJ Framework.

- SR03/ SI03 - Inability to attract, engage, mobilise and retain the right talent, skills at all levels and embed the desired culture.

  Strategic Risk SR03 had been escalated to a Strategic Issue (SI03).

  ARAC's attention was drawn to an error on page 3 of the Risk Assurance report which had stated that the risk associated with SI03 had reduced; the report should have stated that this risk had escalated.

  This risk was being tracked by the Executive.

  LeO's first national recruitment campaign had yielded a high number of applicants for Operational roles, but there were still significant recruitment challenges associated with corporate roles.

  In response to recommendations made by the Board in December, alternative recruitment channels were being considered. Engagement had taken place with several recruitment agencies through the MoJ Frameworks, but a sub-optimal level of customer service had been received. Feedback on this would be provided to the MoJ outside of the meeting with a view to identifying more effective ways for LeO to work with these agencies.

  A business case was being prepared to procure resource for a managed recruitment service.

- SI02 - 2021/22 Financial underspend

  This risk was outside of tolerance and was now being tracked as a strategic issue. The Head of Finance would provide a further update on this as part of the Financial Governance update later in the agenda.

- SR04 - The framework of governance, risk management and control is not sufficiently robust to support the delivery of objectives.

  Having completed a number of Corporate Governance audit actions, this risk, previously been recorded as a strategic issue, has been reduced to a strategic risk.

- The risk associated with the lack of resilience at a senior level had closed. In November, the Executive had agreed that following the appointment of the CO and COO, and the additional resilience and capability that had been added to the Executive Team following the appointments of the Head of People Strategy & Services and Head of PM&A, lack of resilience at a senior level was no longer a risk.

- In response to a request at the October ARAC meeting, a suite of Business Unit Risks had been provided in appendix B of the Risk Assurance report. Since this report had been issued, a further review of the Business Unit risks had been undertaken; risk scores were adjusted accordingly. Business Unit risk scores were beginning to reduce, reflecting the ongoing work to reduce the backlog through a range of front-end initiatives.

- Some progress had been made on developing LeO's risk appetite and tolerances in line with the risk themes set out in the MoJ Orange book and a first draft of risk indicator measures had been developed.

  Further work was to be undertaken to develop risk tolerance data in collaboration with the BI Team which would support the reporting on risks, risk appetite and whether they were within agreed tolerance. Much of this work would be dependent on the recruitment of a new Risk Manager; as much as progress as possible would be made in the intervening period.

- 150 staff had completed a risk temperature-check survey in November 2021. 95% scored 8 or more out of a total score of 10, reflecting the progress that had been made on developing risk maturity and risk culture over the last 12-18 months. Risk awareness was now included as part of the induction programme for new starters. Further developments, including more risk temperature check surveys were planned, but were dependent on the appointment of a Risk Manager.

- Work had commenced on updating the Assurance Mapping Framework. A first draft has been shared with the Executive. The updated Assurance Mapping Framework would be shared with ARAC in Q1 of 2022/23; this would include RAG statuses for each area along with LeO's first, second and third line defences.

- Seven audit actions were closed pending ARAC approval. Four audit actions remained overdue in line with previous ARAC updates. Progress on one of the Casework Compliance audit actions was dependent on the recruitment of a Quality Manager. The Financial Management audit action remained outstanding; completion of this action was dependent on further information being received from the MoJ relating to principals for ALBs on procurement policy. The MoJ was asked to expedite the distribution of this information.

12. The ARAC Chair thanked Head of PM&A for the comprehensive paper, noting the improvements that had been made on embedding risk culture and awareness across the organisation and the progress being made on developing the Assurance Mapping Framework.

13. The ARAC Chair had also been pleased with the risk appetite measures that had been put in place, and in terms of the next steps, made the following key points:

- Risk appetite would need to be expressed as a score range so that from the start of the new financial year risk would be reported in the context of the risk appetite positioning.
- The Board would need to agree the overall level of risk appetite.

14. The Head of PM&A confirmed that the OLC Board would be asked to agree the risk appetite positions and that ARAC's comments on risk score range had been noted.

ACTION: The Head of PM&A to express risk appetite as a score range so that from the start of the new financial year risk would be reported in context of the risk appetite positioning.

15. Concern was raised about the wording of some of the items in the risk appetite matrix and how they words may convey the opposite meaning to what was intended.

ACTION: The Head of Finance to review and update the risk appetite matrix wording to ensure it accurately reflected the intentions regarding risk appetite.

16. Recognising the amount of work being undertaken to mitigate the risk of an underspend at the end of 2022/23 and considering the reputational impact such an underspend would have, ARAC asked the Executive to consider whether a risk on '2022/23 underspend' should be added to the strategic risk register and whether an overarching standalone strategic reputational risk should also be added at a level above the current risks. In response, the Executive made the following key points:

- A strategic risk on '2022/23 underspend' should be added to the strategic risk register.

- It had been intended that the strategic risk SRO1 (Failure to deliver against required performance trajectory and consequent loss of credibility and confidence in LeO's ability to deliver the scheme effectively in the long term.) would sufficiently capture reputational risk, however the further consideration would be given to ensure that the reputational risk of an underspend in 2022/23 was sufficiently drawn out and clear.

ACTION: The Head of Finance to add a strategic risk on '2022/23 underspend' to the strategic risk register.

ACTION: The Executive to reflect on the strategic risk SR01 and consider whether the reputational risk of an underspend in 2022/23 was sufficiently drawn out and clear.

17. ARAC recommended that further consideration should be given to adopting a more open risk appetite for those activities associated with the innovative work being undertaken to improve performance. Recognising that the improvement initiatives may not always be successful, an open risk appetite would reflect the level of risk the organisation was prepared to accept, and this would balance out the overall risk profile.

18. The ARAC Chair commented on the benefit of assessing and rating risks individually against risk appetite so that they can then be combined to provide a wider risk profile and provide a more holistic view of risk.

19. In response, the Executive made the following key points:

- Discussions had taken place at the Board's risk workshop in 2021, which had focussed on LeO's range of risk appetites, including the higher risk appetites adopted for some of the innovative work, such as outsourcing, hub approaches and big process changes.
- The Executive may need to revisit this but drew the Committee's attention to the challenges around how best to represent the risk appetite ratings associated with the work on innovation and improvement in relation to the risk themes set out in the MoJ Orange book.

20. Overall, ARAC had been pleased with the way that risks were being recorded but felt that more pro-active risk management was required to ensure that every effort was being made to reduce risk scores and ensure that appropriate documented controls, pre and post mitigation scores were in place.

21. In response, the Executive agreed that a shift in focus was required to ensure proactive risk management by risk owners, and drew ARACs attention to the following points:

- Considerable progress had been made over the last 12 months; risk registers were now reviewed each month across all business areas in line with the Executive's continuing commitment to developing LeO's risk maturity.

- It was the responsibility of individual risk owners to update their risks and document the controls in place and dip sampling of risk controls was planned for 2022/22 to test their effectiveness

22. Reflecting on the effort that had been made to ensure that LeO would start the new financial year with a full complement of operational staff, and the impact of this in terms of mitigating the risk of an underspend in 2022/23, the OLC Chair invited the CO to comment on the risk associated with not starting the year with a full complement of corporate roles and how this might impact an underspend. In response, the CO made the following key points:

- Throughout 2021/22 it had been difficult to recruit to many of LeO's corporate roles; this reflected both the state of the current employment market and the specialist nature of some of the roles. For many of these roles, LeO has had to go back out to market several times to recruit.
- Higher rates of corporate attrition had been seen recently; this would continue to be closely monitored and ARAC and Board would be kept updated accordingly.
- A vacancy factor had been built into the proposed 2022/23 budget; a percentage of which had been allocated to corporate roles.
- Underspend and performance were both key risks when considering vacant posts, but vacancies posed a greater risk to the operational side of the business.
- The risk implications associated with corporate vacancies were smaller and more manageable, particularly given the alternative recruitment approaches being explored, including the managed service option.

23. Considering the level of uncertainty in the environment in which LeO was operating, and as its improvement journey accelerated, the ARAC Chair commented on the critical importance of risk management and prioritising time to focus on risk activities, including identifying, controlling, managing and monitoring risks and recording the interdependencies between risks in LeO's risk mapping.

ACTION: The Head of PM&A to ensure that risk mapping adequately captured the interdependencies and relationships between risks.

24. The LSB's CEO shared insight into managing a risk of underspend, recommending that budgetary management should be a shared responsibility across the whole organisation so that being under or overbudget at year end was seen as a shared failure.

25. ARAC **noted** the Risk Assurance paper and **approved** the 7 audit actions closed pending ARAC approval.

Item 5 – Internal Audit Update

26. GIAA reported on the progress being made on delivering the 2021/22 audit plan and provided an update on planning underway for 2022/23 audit plan. The following key points were made:

- Final audit reports for Business Continuity & Case Progression Audits had been shared with ARAC at previous meetings.
- There had been a slight delay to the start of the Recruitment Audit, as result of GIAA awaiting onboarding of HR specialists to carry out this audit. The Terms of reference had now been agreed and field work had commenced.
- The Performance Reporting Audit had been completed; a draft report was pending management action responses.
- Planning meetings had been scheduled for the audits on Change and Transformation Audit and Payroll Audit.
- Recognising that Q4 was a busy time for GIAA, with the simultaneous delivery of the 2021/22 audit plan and planning for the 2022/23 schedule of audits, ARAC was advised that the next round of audit reports would be presented at the March ARAC meeting.
- Meetings had been scheduled with the CO and Head of PM&A and the ARAC Chair to discuss and plan the 2022/23 audit plan with the CO, Head of PM&A and the Head of Finance.
- Reflecting on the agenda for this meeting, GIAA advised that draft audit reports and Terms of Reference would not normally be presented at ARAC meetings and questioned whether these were specifically required. In response the ARAC Chair confirmed that ARAC did not require sight of these documents.

27. Reflecting on the audit plan, the ARAC Chair commented that was unfortunate that two audit reports and two audits had been scheduled for Q4 considering this was such a busy time for both GIAA and LeO. It was recommended that consideration was given to the timing of audits in the 2022/23 audit plan to ensure where possible the pressure on Q4 was alleviated for both GIAA and LeO.

28. GIAA confirmed further discussions on the progress being made against management actions arising from the Risk Management & Governance Audit would take place at meeting that had been scheduled with the Head of PM&A.

29. ARAC **noted** the GIAA update report.

Item 6 – External Audit Update

30. The Chair welcomed and introduced Rebecca Palmer, External Auditor, from Deloitte.

31. Auditors advised that the full Financial Audit planning report was not yet available. The following high-level timetable was shared with ARAC; any changes to this timetable would be brought to the attention of the Executive and ARAC accordingly:

- A two-week planning phase in February.
- A first draft of the accounts to be presented to Auditors at the end of April.
- Control testing and final field work to commence on 9 May. This would allow sufficient time for the audit to be completed and allows some time for any unforeseen delays.
- Certification of accounts planned for pre summer recess in July.

32. The Chair sought assurance that Deloitte had sufficient staff available to complete this audit to mitigate any risk of delay. In response the following key points were made:

- This audit was Deloitte's key focus.
- The audit team has been set up and sufficient time was assigned for this work to be completed within the time frame outlined.
- Previous auditors work would be reviewed to avoid any unnecessary duplication of work.

33. ARAC sought to clarify whether there were any other key deadlines that would need to be factored into the audit timetable. In response, the NAO advised that
the Head of Finance would be required to complete a consolidation schedule for the MoJ group accounts; this fell within the planned timetable and therefore did not present any risk. The ultimate deadline for OLC / LeO was the pre-recess deadline. This was yet to be agreed, but usually fell around 21 July, with the last laying date being a few days before this. The audit timetable provided plenty of time to meet this deadline and as such, NAO had no concerns about meeting this deadline.

34. ARAC asked Auditors whether there was a process in place to capture incremental learning from previous audits and whether the lessons learned had factored into the 2021/22 audit plan. In response, NAO confirmed that lessons had been learned from the 2019/20 audit process which were reflected in the 2020/21 audit process when significant improvements had been seen.

35. The key issue arising from the 2020/21 audit had been the delay in delivering the final audit timetable. The February planning phase was to be used by Auditors to gain a better understanding of LeO's processes; this in turn would help them to understand the questions they would need to ask LeO and the information they would need to request to enable them to complete the audit.

36. Auditors would be working closely with the Head of Finance; this would ensure that all points raised were discussed together in one meeting, rather than in several iterations. This, along with much of the previous learning has been factored into the plan.

37. Head of PM&A confirmed that the draft programme plan for the Annual Report and Accounts process was to be developed in February, with launch meetings scheduled for the end of February.

38. The programme plan would be shared with NAO and Deloitte to ensure that timings were aligned. Regular updates on the progress being made against key milestones would be shared with the Board and ARAC.

39. Auditors sought ARAC's approval of the £40,000 audit fee. The ARAC Chair advised that further consideration would be given to this outside of this meeting.

ACTION: The ARAC Chair to give further consideration to the approval of the External audit fee.

40. Head of Finance reported on the 2020/21 Management Letter, drawing ARAC's attention to the following key points:

- A verbal updated on LeO's responses to the points raised in the 202/21 Management Letter had been provided at the ARAC meeting in October. These responses had now been documented in the Management Letter and a copy would be shared with ARAC attendees after the meeting.
- There were 5 follow-up points raised in the management Letter: 2 points relating to corporate knowledge and documentation of procedures, and robustness of key financial controls had now closed. Of the remaining 3 items:

  <u>Governance of finance:</u> The recommendation for additional capacity and resilience had been addressed by recruitment of new Finance Manager who was now fully established in role and would provide important year-end capacity and resilience.

  <u>Quality of audit evidence and audit working papers</u>: In response to the recommendation to ensure that every working paper was reviewed, all audit working papers would now be reviewed by either Head of Finance or the Finance Manager. Both post holders were qualified and experienced accountants and they would each review and sign off the other's papers prior to submission.

  Disclosure guidance: The project plan for year-end now included plans to use the disclose guidance in line with the recommendation that had been made by Auditors.

41. The Chair asked that the Head of Finance to circulate the updated Management Letter to ARAC attendees after the meeting.

ACTION: Head of Finance to circulate the updated Management Letter to ARAC attendees after the meeting.

42. Auditors advised that as part the 2021/22 audit, they would gather evidence to determine whether the recommendations set out in the 2020/21 Management Letter had been satisfactorily addressed. A further update on this would be provided after the 2021/22 audit had been completed.

43. The ARAC Chair commented on the importance of this independent assurance, which ARAC would look forward to receiving.

44. ARAC **noted** the external audit update.

Item 7 – Annual Report & Accounts: Lessons Learned

45. Head of PM&A reported on the lessons learned from the 2020/21 Annual Report & Accounts process. The following key points were made:

- The learning from the 2020/21 Annual Report & Accounts process would be taken into account to further improve the process for the 2021/22 Annual Report & Accounts.
- Wider engagement with Management Team was planned; this would provide an increased level of resilience to the Executive Team and ensure better collaboration and support for elements of the Annual Report including operational performance and case studies.
- An Annual Report workshop was to take place with the Management Team in April.
- In line with OLC feedback, procurement was underway for an external designer to work on the design of the Annual Report and Accounts.
- Time had been factored into the Annual Report and Account process to ensure that copies of the Annual Report and Accounts would be printed on time.

46. A discussion took place about the structure of the Annual Report and Accounts in which:

- The Executive was asked to make enquiries and advise the OLC Chair and Board about whether there were any requirements specified by the MoJ or other stakeholders regarding the structure of the Annual Report and Accounts.
- The OLC Chair commented that the learning from the previous year's Annual Report and Accounts, the Business Plan process and the findings from the Internal Audit on Performance was taken into consideration along with identifying the critical indicators and messages should be included in the Annual Report and Accounts to adequately demonstrate LeO's performance over the last year.

47. The Executive confirmed that they would reflect on the points raised about the Structure of the Annual Report and Accounts and give further consideration to what data could be used to demonstrate performance and how performance could be better communicated to aid stakeholders' understanding. Recommendations would be made to the OLC Chair and Board.

ACTION: The Executive to reflect on the points raised about the Structure of the Annual Report and Accounts and give further consideration to what data could be used to demonstrate performance, how performance could be better communicated to aid stakeholders' understanding and make recommendations to the OLC Chair and Board.

48. The ARAC Chair stressed the importance of allocating sufficient time in the plan to allow for proof reading, cross checking and multiple iterations of the Annual Report.

49. The ARAC Chair thanked the Head of PM&A for the paper and had been pleased to see that planning had started early for the 2021/22 Annual Report and Accounts.

50. ARAC **noted** the update on the Annual Report and Accounts,

Item 8 – Financial Governance

51. The Head of Finance reported on the full year financial forecast underspend against budget and other key financial reporting at November month end. It was noted this was previously reported at the OLC Board, and the following key points were made:

- A significant underspend (£714k) was forecast in staffing costs because of recruitment and attrition issues. This was driving a forecast underspend on IT licenses and a forecast reduction in case fee income, reflecting the vacancies and consequent performance challenges in operations.
- A reduction in the levy had been forecast because of this; the sector would pay circa £600k less this year.

52. The ARAC Chair thanked the Head of Finance for the report, commenting that whilst this report had previously been shared with OLC Board, ARAC had a responsibility to consider the information through their specific risk and audit focus.

53. Reflecting on the significant increase in the staffing underspend over the last three months, the ARAC Chair sought confirmation that the lessons learned from the 2021/22 staffing underspend would be taken into consideration in 2022/23 to mitigate the risk of any future staffing underspend.

54. Commenting on the critical importance of closely monitoring the assumptions on recruitment and attrition underpinning the 2022/23 Business Plan, the ARAC Chair advised that where there was any deviation from the assumptions, a reforecast should be undertaken. The reforecast should be accompanied by a clear narrative explaining why changes had been made to the assumptions and the impact those changes would have.

55. The Head of Finance reported on how the lessons learned during 2021/22 were already informing planning for 2022/23. Pro-active recruitment had enabled LeO to over recruit for the start of 2022/23, enabling LeO to actively mitigate operational attrition in the early part of the year. Should the anticipated attrition rates in 2022/23 not be in line with assumptions, LeO may potentially have to manage an overspend. Attrition and recruitment and their impact on the Budget and Business Plan would therefore be closely monitored throughout the year and mitigating action would be taken accordingly.

56. Given the increase in operational resourcing in line with the Business Plan, ARAC sought to understand when staff costs would be expected to run in line with the budget. In response the Head of Finance explained that:

- It was expected that operational staff costs would run in line with the budget from April 2022.
- There would be some vacancies in corporate roles carried forward into 2022/23. 24% of the vacancy factor was attributed to corporate vacancies
- There was the potential for a substantial part of the vacancy factor to be used up in Q1; this would be dependent on the overall number of organisational vacancies.
- With pro-active recruitment and the close monitoring of attrition, vacancy factor would be managed throughout the year.

57. ARAC had been concerned to learn that a substantial part of the vacancy factor may potentially be used up in Q1. Members had expected the vacancy factor to have accommodated fluctuations in staffing resource levels throughout 2022/23, and therefore retained over the course of the year. In response, the Executive made the following key points:

- The vacancy factor calculations were still being reviewed.
- Focus on recruitment to fill corporate vacancies would continue and consideration was being given to over recruiting to investigator roles to cover anticipated operational attrition in 2022/23.
- Over recruitment would carry significant risk; this would need to be carefully considered.
- Corporate vacancy factors may need to balance the operational variances.
- ARAC and Board would be kept fully informed on the vacancy factor over the weeks ahead.

58. Considering the long-standing corporate vacancies, including the Risk Manager and Quality Manager, the ARAC Chair asked whether anything more could be done to accelerate recruitment rather than allowing the vacancies to continue into Q1. In response, the following key points were made:

- Engagement with recruitment agencies through the MoJ framework had taken place. LeO had encountered some customer service issues with some of the agencies which had had a detrimental impact on recruitment to some of the corporate roles
- Uncompetitive salaries were a significant detrimental factor underpinning LeO's inability to recruit to corporate roles, including the Risk Manager, Quality Manager and Legal Manager.
- A corporate salary benchmarking exercise was to be carried out by the Head of People, Strategy and Services as part of the delivery of the People Plan.
- The Head of PM&A was exploring options to obtain resource on a consultancy basis for the Risk Manager role.

59. ARAC sought assurance on the accuracy and stability of the financial forecast that had been presented. In response, the Head of Finance confirmed that the forecast had included all known vacancies and was as accurate as it could be although it was inevitable that there would be some changes to the forecast by year end. The forecast had been prepared in collaboration with departmental managers and included agency staffing and consultancy costs. There was an expectation that some vacancies would be filled before year end, such as the Legal Manager and this was reflected in the March forecast.

60. Reflecting on the critical Board discussions that had taken place on breaking the trend on underspend, the OLC Chair commented on the helpful and reassuring discussion that had taken place at this meeting.

61. The OLC Chair sought to understand the level of awareness and understanding by sector of why lower than expected invoices would be received for the 2021/22 levy. In response the CO advised that it was not well understood by the sector that invoices issued for 2021/22 would be reduced. The Executive was reflecting on how the messages about this could be better managed and welcomed any comments from LSB regarding this. The OLC Chair commented that it would be important that the sector understood why lower invoices were being issued so that expectations were appropriately set for when the levy would increase back to normal levels in the following year.

62. Following a detailed discussion, the ARAC Chair stated that as the Budget and Business Planning for 2022/23 progressed, it would be important for ARAC to be assured that lessons learned from the 2021/22 Budget and Business Plan had been taken into account, that appropriate assumptions were being made to underpin the budget proposal and that the assumptions and budget would be closely monitored throughout 2022/23 to avoid another underspend.

63. The ARAC Chair added that the Executive had provided assurance that this was being taken into consideration and that planning was underway to ensure that attrition and recruitment rates were built into the plan. A risk aversion approach was being taken by recruiting a higher level of operational staff to take account of attrition, but this would need to be carefully monitored and controlled to ensure that there was no underspend at the end of 2022/23.

64. ARAC **noted** the update on financial governance.

Item 9 – 2022/23 Budget Setting Assurance

65. The Head of Finance presented the Budget Setting Assurance Report, drawing ARAC's attention to the work that had been undertaken to align the budget figures with performance projections and to strengthen the checks and verifications on key assumptions and the forecasting that underpins that budget setting process.

66. In response to a question raised about what the key risks and concerns were regarding the budget setting assurance process, the following key points were made:

- Recruitment and resourcing to planned levels was a key concern and fundamental to the delivery of the budget and performance.
- Starting the year with the right number of FTE would be imperative. Early indications on the volume and calibre of candidates from the recent national recruitment campaign was encouraging and has provided the Executive with a degree of confidence that planned levels of resource would be achievable. This is the result of taking a different approach and doing things differently.

67. ARAC was advised that the assumptions on resource were being checked each month and adjustments were made to the forecast accordingly. This proactive approach ensured that prompt action on recruitment would be undertaken in response to any variations in resource levels and provide greater confidence in being able to maintain correct staffing levels and deliver to BAU performance expectations.

68. ARAC sought to understand which of the assumptions had shown the most variability over the past six months. In response, the Performance & BI Manager confirmed that attrition had showed most variability. The year started with low numbers of attrition, but this had significantly increased in Q2 into Q3. Long-term sickness had remained high throughout the year, but most other assumptions had remained broadly static throughout the year, in line with previous reporting.

69. The Performance & BI Manager reported that by adopting a more pro-active approach for managing the assumptions and performance trajectories, the budget setting process had been much better informed.

70. The ARAC Chair noted that whilst assumptions should be robust and as accurate as possible, there was no guarantee that they would be 100% accurate. It would therefore be important to monitor the assumptions closely to identify any variance, and to have a robust process in place to allow the impacts of any deviance to be understood and prompt mitigating action to be taken to bring them back within an acceptable range.

71. The ARAC Chair stated that the next level of assurance sought by the Committee would be about the process for quickly identifying and rectifying any assumptions that proved to be incorrect or events that deviated from the assumptions to ensure that there would be no material impact on the budget and asked the Executive to reflect further on this and how it would provide ARAC with the assurance required.

ACTION: The Executive to identify a process for quickly identifying and rectifying any assumptions that proved to be incorrect or events that deviated from the assumptions to ensure that there would be no material impact on the budget.

72. ARAC **noted** the paper on the Budget Setting Assurance.

Item 10 – Attestations & Single Tenders

73. Head of Finance reported that, for the period October to December 2021, there were two items to attest for:

- Renewal of the maintenance and handyman service, at a value of £41k. This was required because there was no interest from framework suppliers to tender for this relatively small value contract.
- Consultancy for specialist advice and report on complaints transparency compliance at a value of £18k +VAT. This is a niche area requiring a specialist supplier.

74. ARAC **noted** the update on attestations and single tenders.

Item 11 – Expenses Policy

75. The Head of Finance presented the updated Expense Policy, advising ARAC that advice and input had been provided by the OLC Chair, Grant Thornton and LeO’s employment solicitors, Mills and Reeves.

76. OLC Chair highlighted the importance of presenting the updated Expenses Policy to ARAC, given that in the past LeO has been publicly criticised for decisions that had been taken in relation to the payment of travel expenses to a former Chief Ombudsman. Considering this, it had been important to exercise very high standards of due diligence and to make the most of the support, advice and learning available from the MoJ, LSB, in addition to the legal advice that had been taken by the LSB, and to fully involve these key stakeholders in the process of updating the Expenses Policy.

77. The CO had been made fully aware of the process for updating the Expenses Policy. Considering the previous reputational risk to LeO, it had also been important to ensure that any changes made to the Expenses Policy had been carefully considered to mitigate any future risk to LeO, the OLC and the OLC Chair who would be responsible for authorising any expenses claimed by the CO.

78. ARAC commented on the timeliness of the review of the Expenses Policy considering the changes being made to ways of working and sought to understand whether future working models at LeO had been taken into consideration when updating this policy.

79. In response, the Head of Finance explained that the policy had been written in a way that would accommodate any future working models that may be implemented at LeO. The permanent place of work for staff currently employed by LeO is LeO's Birmingham office, but the policy provides sufficient flexibility to accommodate staff employed in the future if their permanent place of work was deemed to be any other location, including a regional hub, or at home.

80. ARAC commented that a critical decision regarding recruitment would be the identification of an employee's permanent place of work and questioned whether clarity on this should be included in guidance issued alongside the Expenses policy. IN response, the Head of Finance confirmed that further consideration would be given to this in discussion with the Head of People Services and Strategy.

ACTION: The Head of Finance to discuss with the Head of People Strategy & Services whether guidance should be issued alongside the Expenses Policy to clarify what was deemed as an employee's permanent place of work.

81. ARAC had been keen to ensure that the Expenses Policy would be easy for employees to use and would not present a barrier to staff seeking to obtain reimbursement for expenses. In response the Head of Finance explained that only a small number of staff would be expected to travel for business purposes and therefore use this Expenses Policy would not be widely used by staff.

82. The Chair suggested that the Head of Finance reviewed the wording in the Expenses Policy regarding the acceptance of travel receipts to ensure it allowed for travel booked online where receipts were provided in an electronic format and would need to be printed off.

Action: The Head of Finance to review the wording in the Expenses Policy to ensure that it allowed for the acceptance of electronic receipts where travel had been booked online and electronic receipts would need to be printed off.

83. ARAC **approved** the Expense Policy, subject to minor amendments.

Item 12 – Information Rights & Security Incidents

84. The Head of IT and Information Governance presented a report on Information Rights and Security Incidents and draw ARAC's attention to following the key points:

- Information requests remained stable with no emerging trends and were dealt with within statutory timescales.
- Overall number of data breaches remained low and represented a very small fraction of the overall contacts with customers and stakeholders.
- LeO was confident that its data protection regime was both proportionate and effective.

85. ARAC **noted** the update on Information Rights and Security Incidents.

Item 13 – Annual Security Policy Framework

86. The Head of IT and Information Governance presented a report on LeO's Cyber Security Self-Assessment and Infrastructure report, drawing ARAC's attention to the following key points:

- All identified vulnerabilities had been addressed, with improvements completed over the last year.
- Remainder of the year would be spent focusing on vulnerability testing and user education.
- No new emerging threats had been identified.
- Previously identified phishing threats had been addressed and risks had been reduced to an acceptable level.

87. Considering the need to ensure that cyber security was kept up to date to counteract any new security treats, the Head of IT and Information Governance confirmed that LeO regularly undertook vulnerability scans and penetration tests; the next vulnerability tests would be carried out in Q4 and action would be taken to strengthen LeO's security as required. Additionally, the MoJ provided LeO with advice and guidance on any emerging cyber security threats and mitigating action would be taken by LeO accordingly.

88. In response to a question raised, ARAC was advised that an exercise to test the range of disaster recovery scenarios set out in the Business Continuity Plan had been undertaken in 2021. This included the simulation of a response to a cyber-attack and how LeO would recover from it. This had been a worthwhile exercise which exposed misunderstandings about what to do at each stage and enabled action to be taken to address this. An audit of Business Continuity planning had subsequently taken place and had received a substantial audit rating.

89. ARAC **noted** the update report on Cyber Security Self-Assessment and Infrastructure.

Item 14 – Annual Health & Safety Compliance Report

90. Head of PM&A presented the Health and Safety Compliance report, drawing ARAC's attention to the following key points:

- Since the paper had been issued, a Health & Safety and Facilities Officer had been recruited and had commenced in post on 5 January.
- The Health & Safety Policy had been updated and was currently being reviewed and feedback internally. The policy would be submitted to the Executive Team by the end of the month for approval and would then be shared with ARAC and RemCo for information.
- An audit score of 97.8% was received on the annual health & safety audit. This was the highest score received for several years and reflected the increased focus on health & safety at LeO, particularly in response to COVID.
- Responsibility for Health & Safety falls within the PM&A function. The new Health and Safety and Facilities Officer would lead on reporting; reports would be brought to ARAC on an exceptional basis in the future.

91. ARAC **noted** the Health and Safety Compliance report and the further update provided by the Head of PM&A.

Item 15 – Any Other Business

92. OLC Chair reported that an update on financial governance and risk management was proactively shared with the MoJ Permanent Secretary on quarterly basis in the form of a letter drafted by the OLC Chair, with input from ARAC chair and the CO.
93. The last letter had been shared with the Permanent Secretary following October's ARAC and Board meetings and had highlighted the improving feedback from internal and external auditors along with emphasising the critical focus and challenges regarding the management of the underspend.

94. The next letter would be issued towards the end of February, with a further letter being issued after the end of the financial year as part of the OLCs commitment to proactively keeping our critical stakeholders informed of progress.