

**Minutes of the thirty-fourth meeting of the
Office for Legal Complaints Audit and Risk Committee**

Monday 18 September 2017

1.00 pm – 3:30 pm

Legal Ombudsman, Birmingham

Present:

Michael Kaltz, Chair
Rebecca Hilsenrath
Tony King

In attendance:

Nick Hawkins, Chief Executive (CEO)
Kathryn Stone OBE, Chief Legal Ombudsman (CLO)
Rob Powell, Director of Corporate Services (DCS)
Emma Cartwright, Head of Finance
Gurmit Sangha, FOI & Compliance Officer (*Item 4 only*)
Kay Kershaw, Interim Board Secretary
Steven Corbishley, NAO
Ali Morgan, NAO
Archie Rwavazhinji, Assistant Manager, BDO
Chris Davis, Government Internal Audit Agency
Alison Wedge, Deputy Director, ALB Governance, MoJ (Observer)
Neil Buckley, CEO, Legal Services Board (Observer)

Board Secretary:

Helen White

Apologies:

David Eagles, Partner, BDO

Preliminary issues:

The meeting was quorate.

Item 1 – Welcome and apologies:

1. The Chair welcomed and thanked those in attendance. He noted the apologies sent by David Eagles. Special thanks was given to Helen White for her contribution to ARAC. There were no declarations of interest.

Item 2 – Minutes of previous meeting:

2. The minutes of the meeting of 4 July 2017 were approved as a true and accurate record of the meeting. It was noted that these minutes would now be published.

ACTION:

The Board Secretary to publish the ARAC minutes from the July 2017 meeting.

Item 3 – Matters arising & action points:

3. Members noted those items where actions had been completed and those that were included as agenda items. Follow-on action points were set as required.
4. The Chair noted that following discussions with colleagues, BDO had dropped their recommendation relating to a control issue arising from the previous year's audit.

Item 4 – Implementation of General Data Protection Regulation (GDPR)

5. The Chair welcomed Gurmit Sangha to the meeting to provide an overview of GDPR and the organisation's response to ensure compliance with the forthcoming amended Data Protection Act.
6. Discussion took place on work being undertaken by other ombudsman organisations in readiness for GDPR.
7. Gurmit Sangha reported that the three main areas where the OLC process personal information were investigations under LeO's scheme rules, customer satisfaction and research, HR and Finance.
8. He stated that there would be an impact on data used for customer satisfaction and research as consent was given to collect the data for investigation of a complaint. Under GDPR, default consent would no longer apply for this purpose.
9. Discussion took place on how GDPR provides scope to use other grounds for processing data beyond the principle reason it was obtained. ARAC members were assured to note that the organisation's position on this was in line with other bodies and that updates from ICO were being monitored to ensure this remained the case.
10. Discussion took place on subject access requests. It was noted that following GDPR, LeO would no longer be able to charge a fee. Rebecca Hilsenrath questioned the impact this change would have on the number of subject access requests and the capacity of the organisation to meet the demand.
11. Gurmit Sangha responded that considerable work had been undertaken in recent years around sharing of information with complaints and lawyers during investigations as careful and effective sharing of information reduced the incentive for a data subject to make a subject access request.

12. Alison Wedge noted how far advanced the OLC were in planning for GDPR. She noted that Gurmit Sangha was involved with MoJ forum who were supporting and guiding Arm's Length Bodies.
13. Tony King questioned the governance arrangements in place to oversee the GDPR project. The DCS reported that the Security Forum supported him, as SIRO, to provide oversight and management of the project.
14. Discussion took place on how breach notification would change and in particular the impact of the 72 hour notification requirement. It was noted that an updated guidance note from ICO was awaited.
15. The DCS reported that an update on Privacy by Design would be brought to the October OLC Board meeting.
16. The ARAC Chair thanked Gurmit Sangha for the comprehensive update.

Item 5 – Update on Internal Audit Actions

17. The DCS presented the update on internal audit actions. It was noted three actions were closed since July. Four actions would be completed when the new case management system goes live.
18. Rebecca Hilsenrath questioned the slippage of the outstanding action to develop procurement guidance. The Head of Finance stated that clarification was sought from MoJ colleagues. Once received, the guidance would be finalised and circulated.
19. The ARAC Chair expressed concern at the organisation's resilience in the area of management information. The DCS stated that the organisation was now more resilient and the key was to improve the systems which produced data and the underlying culture.

Item 6 – Assurance Map

20. The DCS reported that one of the recommendations from the corporate governance review was that internal audit plans should reflect assurance needs as determined by an assurance map. He stated the organisation had not previously had an assurance map and detailed in the 2017-18 business plan was the commitment to develop one by quarter two.
21. He stated that Treasury guidance was followed combined with a series of workshops with those responsible for the various systems and processes. He noted that internal audit had produced a management letter on the work undertaken with their views on the status and quality of plans to develop and use the assurance map.

22. Discussion took place on the cost benefit analysis of producing an assurance map. Chris Davis stated that NAO had produced reports highlighting the value of this exercise. He noted it was used widely within both the private and public sector and was a growing concept across all sectors in risk areas.
23. The DCS reported that progress against the assurance plan would be tracked alongside updates of the risk register. He stated the most practical application would be to drive the internal audit programme.
24. It was agreed that that DCS would go through the Assurance Map with NAO colleagues at their next meeting.

ACTION:

The DCS to update NAO colleagues on the Assurance Map at their next meeting.

25. Neil Buckley reported that assurance mapping work was being planned by the LSB ARAC meeting, so he found the discussion very helpful to inform this work.
26. Members noted the report and thanked the DCS for the update.

Item 7 – Internal Audit Reports

27. Chris Davis, GIAA presented the internal audit progress update. He reported that GIAA were developing a new format for reporting to ARAC meetings. When this was completed, the updates would include more statistical data and progress against targets.
28. It was noted that there were two audits in the audit plan for quarter two: the Assurance Framework; and Performance Statistics.
29. Chris Davis reported that the terms for reference for the Performance Statistics audit were being expanded to outline in more detail the areas to be covered in the audit. The audit would be undertaken in three phases with the first phase being completed by the end of September, the second by October/November and the third by the end of the calendar year. It was agreed that any slippage in this programme would be communicated to ARAC.

ACTION:

GIAA to communicate any slip in the Performance Statistics audit schedule to ARAC.

ACTION:

GIAA to share the more detailed plan for the Performance Statistics audit with ARAC.

30. It was agreed that when one phase was completed GIAA would report to the Executive and ARAC by either interim management letter or report.

ACTION:

GIAA to update the Executive and ARAC either by interim management letter or report, after the completion of each phase of the Performance Statistics audit.

31. The ARAC Chair reported that in line with the ARAC terms of reference, prior to this meeting ARAC members had held a private session with the internal auditor.

Item 8 – External Audit Update / Annual Report and Accounts

32. Ali Morgan confirmed that the Audit Completion Report presented at the July ARAC meeting remained valid and would be used for the Annual Report and Accounts finalisation. He noted that the key date would be w/c 16 October for C&AG certification of the accounts.
33. It was noted that the bulk of the post balance sheet event work was nearing completion with the final test work being undertaken in the week before the accounts were signed.
34. It was therefore agreed that ARAC recommend to the OLC Board that they approve the Annual Report and Accounts at the 11 October OLC Board meeting.

Item 9 – Strategic Risk Register

35. The DCS presented the Strategic Risk Register. He noted that three risks had increased; Demand, Operational Resource and Management Information.
36. He reported that the IT risk had reduced following the implementation of the new infrastructure.
37. Members agreed that the additional box incorporating indicators of successful management of risk was beneficial. The executive were requested to ensure this include high level indicators rather than detail and specifics.
38. The CLO presented a more detailed review of the Strategic Risk around Credibility and work being undertaken throughout the organisation to manage the risk.
39. She reported that the current risk appetite for this risk should remain as minimalist. She stated that the Board had approved the communications and engagement strategy. She also noted that real progress had been made in terms of reporting against the business plan.
40. It was noted that the staff moves to put stakeholder, policy, media and communications staff into one team had been influential and had had a positive impact on the organisation's external standing.

41. Discussion took place on the impact other risks, such as the Modernising LeO programme, had on the organisation's credibility. The CLO reported that this issue was discussed at the Modernising LeO programme board to minimise risks to the organisation's credibility.
42. Members noted the risk related to judicial review was minimised by the monthly meeting the CEO held with the Legal team.
43. ARAC members confirmed that they were assured that the Credibility risk was under control and that the risk rating was correct.
44. The ARAC Chair thanked the CLO for her helpful update.

Item 10 – Policy Approvals

45. The DCS reported that there was one policy for approval at this meeting and that the IT System Operating Policy would be presented at the November ARAC Meeting.

ACTION:

The Board Secretary to note the IT System Operating Policy would be presented to the November ARAC meeting for approval.

46. The DCS presented an overview of the updated Anti-Fraud, Bribery and Corruption policy. He noted that the full policy had been circulated due to the materiality of the risk.
47. It was noted that a 'policy on a page' summary would be produced for this and all policies.
48. Discussion took place on whether there was any fraud awareness training which staff could undertake. Alison Wedge agreed to provide the contact details for the MoJ colleague who leads on this.

ACTION:

Alison Wedge to provide the DCS with the contact details of her MoJ colleague.

49. Discussion took place on the point at which ARAC would be notified of any potential fraud. It was agreed that this should follow the existing Whistleblowing Policy where the ARAC Chair would be notified immediately with formal reporting quarterly. The same protection of anonymity as in the Whistleblowing Policy would also be provided.
50. It was agreed that the DCS would circulate the updated policy, to include the 'policy on a page' summary, for approval outside committee.

ACTION:

The DCS to circulate the updated policy, including the summary for approval by ARAC members outside committee.

Item 11 – Financial Approvals

51. The Head of Finance presented the financial approvals.

52. It was agreed that for future meetings, this report would be used for exception reporting only.

ACTION:

The Head of Finance to only provide a Financial Approvals paper on an exception basis.

Item 12 – Any Other Business

53. The Head of Finance reported that an HMRC VAT inspection had been conducted with no issues identified.

54. The ARAC Chair noted that this would be Nick Hawkins' last ARAC meeting as Accounting Officer. He thanked Nick for his work over the past two years and noted that the organisation was now in a much sounder position.

Next meeting

55. The date for the next ARAC meeting would be held on Wednesday 22 November in London.

Helen White
Board Secretary