

**Minutes of the 59th Meeting of the
Office for Legal Complaints Audit and Risk Committee**

Thursday 15 June 2023

Members Present:

Harindra Punchihewa, Chair
Alison Sansome
Jane Martin
Martin Spencer

In Attendance:

Elisabeth Davies, OLC Chair – observing.
Paul McFadden, Chief Ombudsman
Laura Stroppolo, Head of Programme Management and Assurance
Michael Letters, Head of Finance and IT
Blessing Simango, Finance Manager
Rachel Cerfontyne, OLC Board Member, observing.
Marie Miranda, Risk Manger (item 9)

External Attendees

Rebecca Palmer, Deloitte
Tanya Chikari, Deloitte
Jorjie Woodroffe, Government Internal Audit Agency
Kasim Raja, MoJ, ALB Centre of Excellence – observing.
Margie McCrone, LSB – observing.

Apologies:

Matthew Hill, Legal Services Board
Ella Firman, National Audit Office

Minutes:

Kay Kershaw, Board Governance Manager

Item 1 - Welcome, apologies and declarations of interest

1. The Chair welcomed attendees to the meeting and introductions took place.
2. Apologies were noted.
3. The meeting was quorate.
4. There were no declarations of conflict of interest reported. LeO staff declared an interest in agenda item seven: budget and pay remit. ARAC agreed that staff should remain present for the discussions on this agenda item as there was no conflict of interest.

Item 2 - Previous minutes

5. The minutes of the ARAC meeting held on 15 May 2023 were **approved** as a true and accurate record of the meeting.

Item 3 – Previous actions and matters arising.

6. ARAC **noted** the update on previous actions.
7. There were no matters arising.

Item 4 – Internal audit update

8. GIAA reported on the progress to date against the 2023/24 audit plan, drawing ARAC's attention to the following points:
 - The Q1 audit engagement of Management Reporting had been completed. A draft audit report with a substantial rating had been issued and Management responses were awaited. The final audit report would be presented to ARAC at its next meeting in October.
 - Planning had commenced for the audit engagements on Cyber Security and Staff Complaints.
 - The 2023/24 audit plan remained on track with the audit timetable.
9. The ARAC Chair questioned whether there would be any adverse impact on the Cyber Security audit considering that the Head of IT post had been vacant for some time. In response the CO reported that no issues were foreseen with this audit. The Head of Finance and IT provided Executive leadership to the IT function, which had a strong focus on cyber security and reported regularly to the Executive Team on compliance with cyber security requirements and any system changes that were required to maintain LeO's cyber security. An ICT Manager, with a strong background in cyber security, had been recruited; this would ensure LeO's continued cyber security focus.
10. The ARAC Chair was keen to ensure that the 2023/24 audit plan remained on track to prevent a cluster of reports having to be finalised in Q4.
11. ARAC **noted** the Internal audit update.

Item 5 – External audit update

12. The external audit of Financial Statements was substantially finalised, with Auditors undertaking final checks. The Auditor had nothing of concern to report and anticipated recommending to the Comptroller and Auditor General that the OLC's 2022/23 Financial Statements should be certified with an unqualified audit opinion.
13. The Auditor drew ARAC's attention to the following key points:

- Materiality had increased from £306,000 to £310,000 to reflect an increase in gross expenditure during 2022/23.
- There were no misstatements.
- One corrected misstatement relating to the previous year had been identified.
- There was no evidence of management override of controls. Additional checks had been undertaken because of the changed year end budget position which had moved from an underspend to being within budget. Auditors were satisfied that the changed budget position had been achieved in line with the requirements of Managing Public Money and the Legal Services Act 2007.
- There were no findings to note following the Auditor's work on accounting for leases under IRFS 16. All errors from the previous year had been corrected.
- One low risk recommendation from the previous year relating to software and system changes to show the names of posters and reviews of journal entries and the dates journal entries were posted remained open. Auditors anticipated that the Executive would want to complete an analysis of the costs and benefits before committing to complete this recommendation.

14. The Auditor thanked the Head of Finance and the Finance Manager for their support throughout the audit of Financial Statements, commenting on the added pressure that had been placed on the Finance Team to respond to Auditors' requests due to the tighter timetable that was in place this year.
15. In response, the Head of Finance and IT thanked Auditors for the thoroughness of the audit and for the clarity of audit enquiries and thanked the Finance Manager for their prompt response to the Auditor's enquiries.
16. The Head of Finance reported that the previous year's audit had failed to identify errors in the way the median salary of the highest paid role had been calculated; these errors were to be corrected and the remuneration table adjusted accordingly. The information reported in the 2022/23 remuneration table was based on the correct calculations.
17. In line with ARAC's Terms of Reference, ARAC members had met with Internal and External Auditors in a private meeting before the ARAC meeting. The ARAC Chair reported that this had been a positive meeting with Auditors commenting on the significant improvements they had seen through their audit engagements over the last twelve months.
18. In response to a request from ARAC, Auditors had **confirmed** that they would aim to complete all audit checks before the ARAC committee met in June 2024. This would ensure that ARAC received the required independent assurance on the accounts to provide assurance to the OLC Board in line with the Committee's Terms of Reference.

19. It was **agreed** that Auditors would issue an email to ARAC once all the final checks had been undertaken to confirm that the 2022/23 Financial Statements audit had been completed and that no significant issues had been identified*.

ACTION: External Auditors to issue an email to ARAC once all the final checks had been undertaken to confirm that the Financial Statements audit had been completed and that no significant issues had been identified

20. On behalf of the Committee, the ARAC Chair thanked the Chief Ombudsman, the Head of Finance, the Finance Manager, the Head of Programme Management and Assurance and the wider LeO team for the hard work and effort that underpinned the improvements seen throughout 2022/23.

21. Commenting on the positive relationships that had been seen between LeO and External Auditors, ARAC members congratulated all involved in the Financial Statements audit and had been pleased to note that the External Auditor anticipated recommending that the OLC's 2022/23 Financial Statements should be certified with an unqualified audit opinion.

22. ARAC **noted** the External Audit update.

*Post meeting note: Auditors subsequently completed their final checks and confirmed that they were satisfied that the presented year-end financial statements reflected a true and fair view and no adjustments were proposed.

Item 6 – Annual Report and Accounts 2022/23

23. The External Auditor **confirmed** that they were content to provide ARAC with independent assurance on the 2022/23 Accounts considering that their final audit checks were not expected to result in any major changes.

24. ARAC members **confirmed** that they were content with the independent assurance provided by the External Auditor and would therefore be willing to provide assurance to the OLC Board on the 2022/23 Accounts at its meeting later in the day.

25. ARAC members **confirmed** the OLC Board should be asked to provide conditional approval of the 2022/23 Annual Report and Accounts subject to the completion of the Auditor's final checks and their confirmation that no issues had been identified.

26. ARAC **noted** that the word 'increase' had been omitted from the second line of the penultimate paragraph on page 64 of the Annual Report and Accounts.

ACTION: The Stakeholder and External Engagement Manager to update the Annual Report and Accounts to include the word 'increase' after the word 'pay' on the second line of the penultimate paragraph on page 64 of the Annual Report and Accounts.

Item 7 – Budget and pay remit update.

27. The Executive reported on its assessment of the pay remit guidance; its impact on the OLC's 2023/24 budget, and a proposal for the 2023/24 pay award for staff, drawing ARAC's attention to the following key points:

- The OLC's 2023/24 budget, which provided for an 8% pay increase for staff, was approved by the LSB in March.
- In April, Civil Service pay remit guidance was received; this provided discretion for public bodies to increase their total salary bill by up to 4.5%, with additional flexibility to make awards for a further award for lower paid staff (subject to affordability). LeO was awaiting clarification from the MoJ on how it defined 'lower paid' staff.
- Further guidance was unexpectedly received from the Cabinet Office in June; this was an addendum to the Civil Service pay remit guidance and announced an allowable one-off £1500 non-consolidated payment for Civil Servants. LeO was awaiting clarification from the MoJ on whether LeO would be allowed to award this one-off payment to staff following initial notes of caution from MoJ.
- The Executive continues to engage with the MoJ on the detail of the pay remit and its applicability, but its assessment was that LeO would be allowed to make the one-off non-consolidated payment to staff subject to discretion and affordability. Considering this, the Executive therefore proposed that a 4.5% pay award was implemented for all staff; that a non-consolidated payment of £1500 was made to all eligible staff except the Chief Ombudsman and that the Executive would continue to seek to award the additional pay award targeted at lower paid staff. The Executive had engaged with staff Council on this proposal.
- This proposal meant that a flexibility application to Cabinet Office and HM Treasury for the 8% pay award that was outlined in the 2023/24 OLC Budget and Business Plan would not be pursued. In discussion with the MoJ it had become apparent that such an application would be challenging considering wider public sector pay discussions and that applications were expected to be an exception, cost neutral and based on longer term efficiencies. It would require approval of HM Treasury and Cabinet Office in addition to ministerial support.
- The Executive assessed this proposal to be an affordable settlement within the approved 2023/24 budget and current year end expenditure forecast, but further analysis at the end of Q1 in relation to the affordability of the additional pay award for lower paid staff would be undertaken in addition to further assessment of the finer details around applicability and further clarification and approval from the MoJ.
- The current year end expenditure forecast indicated a small overspend position, this was due to higher operational staffing levels in Q1 and the forecast cost of recruitment for the year; action plans to mitigate this were being developed. The Executive assessed the overall risk of an overspend to

be low and advised that ARAC would continue to receive regular budgetary updates to monitor this position.

28. The ARAC Chair stated that it would be important for ARAC to consider the impact of the Executive's proposal on expenditure to ensure that the OLC's budget could be delivered within tolerance.

29. In response to ARAC's questions, the Head of Finance and IT clarified that:

- The 4.5% pay award plus the one-off non-consolidated payment of £1500 closely equated to the 8% allocated in the OLC's budget.
- The additional payment to lower paid staff could potentially lead to a budgetary overspend, but this would depend on how we defined 'lower paid staff', something that was being clarified with MoJ. The costings presented to ARAC were for several grades, some of which the MoJ may not deem to be 'lower paid'.
- Expenditure on recruitment and non-staff related costs would be adjusted to mitigate any budgetary overspend resulting from the payment of the additional 0.5% if required.
- The small budgetary overspend currently being reported was not fixed and would move in line with changes to monthly forecasts.

30. The ARAC Chair requested that financial projections were presented to ARAC once a final decision had been made on the details of 2023/24 pay award. This was likely to be presented at the Committee's next meeting in October.

ACTION: The Head of Finance and IT to ensure that financial projections were presented at the next ARAC meeting once the Executive had made a final decision on the 2023/24 pay award to staff.

31. Members commented on the one-off nature of the £1500 non-consolidated payment and how it would not address LeO's longer term strategic risks, issues around attrition or LeO's competitiveness in the labour market considering that a payment at a fixed point in time, would not necessarily help incentivise in relation to attraction or retention. Further consideration would be given to this strategic risk as the Board developed its next three-year strategy and Budget and Business Plan.

32. ARAC **noted** the update on the budget and pay remit.

Item 16 – Feedback from external attendees on the meeting

33. External attendees had no further to report.

Item 17 - Any Other Business

34. On behalf of the Committee, the ARAC Chair wished the Head of Finance and IT every success in his new role and thanked him for his hard work and commitment to

LeO and for the improvements he had implemented which included strong and accurate budgetary processes and improved working relationships with Auditors.

- 35.** On behalf of the Committee, the ARAC Chair also thanked the Risk Manager for her commitment, hard work and the contribution she had made to improving LeO's risk management framework and wished her every success in her new role.