

**Minutes of the 58th Meeting of the
Office for Legal Complaints Audit and Risk Committee**

Monday 15 May

Members Present:

Harindra Punchihewa, Chair
Alison Sansome (items 6 to 17)
Jane Martin (items 1 to 9)
Martin Spencer

In Attendance:

Elisabeth Davies, OLC Chair – observing.
Paul McFadden, Chief Ombudsman
Laura Stroppolo, Head of Programme Management and Assurance (items 1 to 7)
Michael Letters, Head of Finance
David Peckham, Head of Operations, Business Information and Business Transformation
Louren Haye, Data Protection and Information Compliance Officer – staff observer
Patricia Tueje, OLC Board Member, observing.
Marie Miranda, Enterprise Risk Manager (items 1 – 6)
Luke Hutcheson, Business Intelligence Manager (item 5)

External Attendees

Ella Firman, National Audit Office
Rebecca Palmer, Deloitte
Jorjie Woodroffe, Government Internal Audit Agency
Kasim Raja, MoJ, ALB Centre of Excellence – observing.
Matthew Hill, Head of Strategy and Policy, LSB – observing.

Apologies:

David Winks, MoJ, ALB Centre of Excellence
Alex Clarke, 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 interest reported.

Item 2 – Deep Dive: Annual Risk Root Review of the Business Continuity Plan

5. The Head of Programme Management and Assurance (HoPM&A) reported that following a deep dive of the Business Continuity Plan (BCP) recommendations had been made for further improvement to BCP. ARAC's attention was drawn to the following key points:
 - Further work would be undertaken to ensure that the BCP remained current; this would include a review and update of scenario testing.
 - A BCP Policy, aligned to ISO 22301, would be developed.
 - Further work on BCP communications would be undertaken to ensure accurate and relevant information was available to staff.
 - An IT Manager would be joining LeO at the end of May and would lead on the work required to address the BCP recommendations with support from the HoPM&A.
6. In response to a question, ARAC was advised that Executive ownership of the BCP Framework was currently split between the Head of Finance and IT and the HoPM&A. The CO clarified more broadly that he and other Executive Team members had clear and distinct ownership of particular elements of the BCP, including around implementation and decision making on invoking or implementing the BCP. In the event of the BCP being invoked, as it was during the Covid Pandemic, the Executive Team would be responsible for owning and implementing specific controls to manage the associated risks.
7. The Head of Finance and IT would be leaving the organisation at the end of June. The CO confirmed that the ownership of the BCP Framework would be considered as part of the interim arrangements being put in place until a new permanent Head of Finance and IT was appointed.
8. An internal audit of the BCP was undertaken in 2021 and received a substantial audit opinion; implementation of the audit recommendations and the deep dive recommendations would further strengthen LeO's BCP.
9. Noting that the deep dive had highlighted that some of the internal audit recommendations had not been implemented, members were keen to ensure that there was a process in place setting out timescales for actioning all BCP

recommendations and for updating ARAC on progress. In response, the HoPM&A confirmed that an action plan with timescales would be developed in discussion with the new IT Manager and Executive. This would be shared with ARAC out of committee and an update on progress would be provided at the October ARAC meeting.

ACTION: The Head of Programme Management and Assurance to circulate the BCP action plan and timings to ARAC out of Committee.

ACTION: The Head of Programme Management and Assurance provide an update on the progress made on delivering the BCP action plan at the October ARAC meeting.

10. In response to a suggestion made by the CO, the ARAC Chair confirmed that ARAC wished to receive an annual assurance update on BCP.

ACTION: The Board Governance Manager to update the ARAC forward plan to include an annual assurance update on the BCP.

11. Following discussion, ARAC **noted** the findings of a deep dive of BCP.

Item 3 - Previous Minutes

12. The minutes of the ARAC meeting held on 16 January 2023 were **approved** as a true and accurate record of the meeting.

Item 4 – Previous Actions and Matters Arising

13. Action 14. Paragraph 59 from the January meeting: The Security Forum would be meeting on 14 May to discuss alternative mitigating actions to reduce the number of security incidents; an update would be provided at the next ARAC meeting.

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

Item 5 – Risk Assurance

15. The HoPM&A reported on the current risk position, the closing position for the 2022/23 Strategic Risks and Issues and the current position on Internal Audit actions.

16. The following key points were drawn to ARAC's attention:

- The closing score for Strategic Issues SI01 and SI02 (PAP Backlog and Inability to Attract, Recruit and Retain Staff) remained unchanged at 16.
- The score for Strategic Risk SR04 (Scheme Rules) had reduced to 8 following the successful launch of the new Scheme Rules in April 2023.
- Strategic Risk SR02 (Change and Transformation) had closed having reached its target score.

- The Internal Audits of Service Complaints and Performance Management both received moderate ratings.
 - The completion of HR related actions arising from the internal audits of Recruitment and Payroll had been delayed because HR resource had been diverted to address issues associated with an upgrade of the HR system, CipHR, in Q4.
 - The Head of Finance highlighted that there had been a long delay in receiving information on the MoJ's procurement policy that had been required to progress the Financial Management audit actions relating to LeO's procurement policy. The information had now been received (although some points of clarity were still outstanding) and a draft procurement policy had been written; detailed guidance on procurement had been incorporated into the Financial Governance Framework; work had been undertaken on the procurement register and discussions were now taking place with the Risk Manager to determine whether the associated action could be closed. A meeting had been scheduled to discuss a plan of action for progressing the remaining actions.
 - A Board Risk workshop had been scheduled for July where consideration would be given to the 2023/24 risks and issues.
 - Following the completion of phase two of the ARAC Dashboard, future Risk Assurance reports to ARAC would highlight the metrics and risks that were outside of tolerance and draw attention to any deterioration in risk scores.
- 17.** Members reflected on the number of outstanding internal audit actions and questioned the scope for improvement.
 - 18.** The HoPM&A demonstrated the changes made to the ARAC dashboard as part of the phase two developments, highlighting the metrics linked to performance and risk tolerance for each of the metrics in the Agreed Data Set (ADS). Sixteen metrics were currently outside of tolerance; an increase compared to previous months.
 - 19.** The ARAC dashboard would facilitate more detailed discussions on Strategic Risks, Business Unit Risks and tolerances at Business Performance Review meetings; this would further improve the management and reporting of risk of to ARAC.
 - 20.** Phase three of the ARAC dashboard would incorporate all other metrics that were not part of the Agreed Data Set.
 - 21.** Commenting on the static nature of strategic risk scores and risk tolerances over the last three months, members questioned whether this indicated a deteriorating position; whether the right mitigating actions had been identified; whether the mitigating actions had been implemented, and whether longer timescales might be needed to deliver what was intended. Members also commented on the volume of business unit risks and questioned whether they would eventually impact on strategic risks and issues. In response, the following points were made by the CO and HoPM&A:

- Risk was actively managed across LeO with detailed Executive Team discussions taking place each month to determine risk scoring throughout the year. Most of the strategic risk scores, including the score for Leadership Resilience, had fluctuated throughout the year as the Executive assessed the risks and considered various factors contributing to them. Many of the risk scores had reduced, demonstrating the impact of mitigating actions.
- The Executive had exercised a degree of caution with some of the risk scoring, taking into account the significant reputational risk in relation to performance before reducing backlog recovery risks, for example. However, even that risk had fluctuated throughout the year.
- The actions and mitigations were also reviewed and updated regularly. The controls associated with mitigating actions for Strategic Risks had been tested throughout the year and were deemed to be effective. Dip sampling of the controls for Business Unit risks had also been undertaken and found to be effective.
- Strategic and Business Unit Risk owners were robustly challenged to identify alternative mitigating actions and controls when existing ones had proved to be ineffective; this helped to ensure that risk scores didn't increase.
- The core factors contributing to the Strategic Issue associated with LeO's inability to attract, recruit and retain staff were outside of LeO's control and were not changing. Therefore, even with the effective mitigating actions it would not be appropriate to change this risk scoring.
- Having now completed phase two of the ARAC dashboard, members would be able to review the risk scores and risk tolerances more frequently and monitor any monthly fluctuations and deterioration. An aggregated view would be presented at ARAC meetings as part of the Risk Assurance report to facilitate discussions on those risk scores that were outside of tolerance.
- Consideration would be given to rationalising the number of performance and risk metrics; this would help the Executive when applying a single RAG rating.
- A detailed review of Business Unit Risks, in line with guidance set out in the Orange Book, had been undertaken following the appointment of the Risk Manager. Seventy-nine Business Unit risks had been identified; these had reduced to 72 in April. The number of Business Unit risks was high and this demonstrated the level of grip the organisation had on risk and the action being taken to prevent them escalating into strategic risks or issues.

22. Following a detailed discussion, members commented on the pleasing improvements that had been seen on risk management over the last eighteen months and how the risk register drove pro-active, robust conversations and challenge across the organisation which ultimately enabled richer and more detailed discussions at ARAC.

23. Following discussion, ARAC **noted** the risk assurance report.

Item 6 – Annual Review of the Assurance Map

24. Since the Assurance Map was last presented to ARAC in May 2022, improvements had been seen in eleven areas and now there were no red RAG ratings. The RAG ratings had been agreed by the Executive and would be tracked and reviewed on a quarterly basis.
25. The MoJ had requested a meeting to find out more about how LeO's Assurance Map had been collated having noted GIAA's the positive feedback on LeO's Assurance Map set in the Risk Management audit report.
26. In response to a request for information on the factors underpinning the Executive's decision to move the Project Management RAG rating from red to green, ARAC was advised that LeO had well developed and embedded project and programme architecture and associated governance processes which had brought rigour to the Project and Programme function over the last year. The project and programme architecture and associated governance processes had been stress tested with live projects during the last year and the project prioritisation framework had also been tested as a second line of defence.
27. Clarity was sought on what the Board's responsibilities were, as distinct to ARACs, for managing and agreeing risk. In response the HoPM&A explained that LeO's Risk Management Framework and the MoJ's Orange Book stated that the Board was responsible for setting and agreeing risk appetite. ARAC was responsible for providing a second line of defence by looking in detail at the risk scores and tolerances and reporting back to the Board to provide assurance. Quality was another second line of defence; this was discussed by the Board as part of quarterly performance dashboard reporting.
28. ARAC **noted** the annual review of Assurance Mapping and had been pleased with the progress that had been made.

Item 7 – Internal Audit update

29. GIAA drew the following key points to ARAC's attention:
 - The 2022/23 Internal Audit plan had been completed and final reports for the audits of Performance Management Framework and Service Complaints had been issued; both audits had attracted a moderate audit opinion.
 - The Performance Management Framework audit had focussed on the implementation of the Performance Management Framework, the Performance Development Review (PDR) process, testing of associated policies, guidance, governance arrangements and training. One medium recommendation and three low recommendations had been made. The results of a staff survey issued by Auditors had highlighted a disparity in knowledge and awareness of the Performance Management Framework and

PDR process between Line Managers and staff; this underpinned GIAA's decision to issue a moderation audit opinion rather than a substantial opinion.

- A moderate Audit Opinion had been provided for 2022/23. An overall improvement had been seen across all internal audits conducted during the year. Areas for further focus and improvement included the design versus operation of controls, policies and guidance.
- Common audit themes impacting government organisations in 2022/23 included the use of data, work around functional standards and the delivery of large projects.
- GIAA had delivered 95% of the 2022/23 Internal Audit Plan by the end of April; the Performance Management Framework audit report had been in draft at the end of April.
- The Internal Audit Plan for 2023/24 had been revised in line with feedback provided at the January ARAC meeting and further discussion with the Executive.
- The Chief Ombudsman (CO) had agreed and signed the 2023/24 Audit Charter, Memorandum of Understanding and Fee Letter.

30. In response to a question, the CO explained that it had been necessary to prioritise and sequence the actions arising from the audit of Service Complaints considering resource, workload and the planned review of the service complaints process that was to be undertaken following a recommendation made by the Independent Service Complaint Adjudicator. The action to implement training for operational staff would be implemented following the review and any subsequent changes being made to the service complaints process.

31. The CO and ARAC members commented on the substantial amount of work involved in implementing the new Performance Management Framework and PDR process; the pleasing audit opinion that had been received; the scope for further improvement in line with the Auditor's recommendations, particularly regarding additional Line Manager support to help staff better understand the principles of the Performance Management Framework and PDR process.

32. The OLC Chair sought to understand how GIAA compared the overall moderate audit opinion given in 2021/22 (based on two limited, two moderate and one substantial audit opinions) to the overall moderate audit opinion given in 2022/23 (based on one limited, three moderate and one substantial audit opinions) and questioned whether GIAA had considered changing the use of the single word 'moderate' in its audit opinions to better reflect and do justice to an organisations' improvement journey. In response the following points were made:

- The moderate size of the OLC's Internal Audit plan meant that only limited inferences could be taken from the internal audits undertaken.
- Considering that the number of recommendations arising from audits conducted in 2022/23 had reduced compared to the number of

recommendations made in 2021/22, the internal audit opinion was shifting to the right. LeO was still on an improvement journey but a substantial audit rating may be achievable in the future if similar improvement trends were seen.

- There was no awareness of any plans by GIAA to change the classification of its audit opinions.

33. Reflecting on the 2023/24 Internal Audit Plan, members **noted** that most of audits were scheduled earlier in the year to help ensure that the audit plan was completed by year end.
34. Members were keen to ensure that customer experience was addressed as part of the 2023/24 audit plan. In discussion it was stated that there would be scope for customer experience to be incorporated into the audits of Reputation – Stakeholder Engagement and the Casework Quality; this would be considered further when the scoping for these audits was undertaken.
35. Following discussion, ARAC **approved** the 2023/24 audit plan.
36. ARAC **approved** the 2023/24 Audit Charter, Memorandum of Understanding and Fee Letter.
37. ARAC **noted** the Internal Audit update.

Item 8 – External Audit update

38. External Auditors reported that the Financial Statements Audit had commenced and was on track to be completed in line with the timetable.
39. A full update on the audit of Financial Statements would be provided at the ARAC meeting in June.
40. ARAC **noted** the update from External Auditors.

Item 9 – Annual Report and Accounts 2022/23: Update on Progress

41. The Head of Finance and IT reported on the progress being made on the 2022/23 Annual Report and Accounts, stating that Auditors had received draft accounts and supporting notes along with Annual Report data which was now being reviewed and checked by Auditors.
42. The timetable for laying the Annual Report and Accounts had changed because the approved Government supplier responsible for printing and distributing the Annual Report and Accounts was unable to provide a print ready version of the document until 4 July. This would create a longer gap between the Comptroller and Auditor General certifying the Accounts and the Annual Report and Accounts being laid in Parliament. Auditors explained that whilst this was not ideal, the risk to the OLC of any post balance sheet events being identified after the certification of the accounts was small. The risk would be carefully managed.

43. Acknowledging that the printing delay was outside of LeO/ OLC's control, ARAC had been pleased to note that the timetable for all other actions associated with the delivery of the 2022/23 Annual Report and Accounts remained on track.
44. ARAC **noted** the update on the Annual Report and Accounts.

Item 10 – Financial Governance

45. The Head of Finance and IT reported on the year-end financial position, drawing ARAC's attention to the following key points:
- The final expenditure for 2022/23 was £1000 below budget.
 - Improvements in timeliness and an increase in the number of payment runs has led to 80% of invoices being paid on time compared to 67% and 34% in the last two years.
 - Due to sickness absence and capacity within the Finance Team, a small increase in the number of aged debtors (over 60 days) had been seen; this was stable and being managed. Aged debts were now £63k compared to £250k three years ago.
46. The ARAC Chair had been pleased by LeO's efforts to reduce the underspend and bring the year end position within tolerance
47. The ARAC Chair extended his thanks to the Finance Team for the improvements they had made to the timeliness of invoice payments and credit control.
48. ARAC **noted** the update on financial Governance.

Item 11 – 2023/24 Budget and Business Plan: Lessons Learned

49. The CO reported on the lessons learned from the 2023/24 Budget and Business planning process, drawing ARAC's attention to the following key points:
- The Budget and Business Planning process worked well. Internal and external milestones and assurance points were built into the process and there were several opportunities to engage with the Board and other key stakeholders, particularly the LSB, and their feedback was valued.
 - Some post submission data errors within the 2023/24 Budget and Business Plan had been identified by the LSB and plans were being put in place to help address this in future.
 - Having shared the lessons learned with the OLC Board in April, the Board had agreed to the introduction of a cut-off point for the agreement of data and assumptions to inform trajectories. This would help with an earlier sign off on the numbers which would reduce the risk of inaccuracies arising from late and wide-reaching changes to the Business Plan documents in the future.

50. The Chair of the Performance Sub-Group reported that a meeting had been arranged for early June to discuss the schedule of Performance Sub- Group meetings and how they would inform the 2024/25 Budget and Business Planning process.
51. ARAC **noted** the update on the 2023/24 Budget: Lessons Learned, commenting on the improvements that had been made so far and welcoming the Executive's commitment to making incremental improvements year on year.
52. The LSB's CEO provided feedback on the 2023/24 Budget and Business Planning process, stating that it had been a wholly different experience compared to previous years, and thanked the Executive for helping to make the process smoother by producing clearer documents and being so responsive to feedback.

Item 12 – Annual Fraud Report

53. ARAC was advised that there were no known instances of fraud in 2022/23.
54. The Executive remained of the opinion that fraud risk was low based on an assessment of the mitigating actions in place which included a review of the annual assurance checklist by the MoJ Counter Fraud Centre of Expertise, work undertaken by External Auditors and improvements made to Cyber Security.
55. ARAC **noted** the annual fraud report.

Item 13 – Attestations and Single Tenders Report

56. ARAC **noted** two items reported in the attestations or single tenders report.

Item 14 – Annual Data Protection Mandatory Training Compliance Report

57. ARAC was advised that 99.6% of staff had completed the mandatory data protection training. One member of staff had not been able to complete the training due to ongoing technical issues with the Civil Service Learning platform; the issue was being investigated and the member of staff would complete the training as soon as they were able to.
58. ARAC **noted** the Annual Data Protection Mandatory Training Compliance report and had been pleased by the rate of staff compliance, commenting that it would be important to keep up the momentum by raising awareness of data protection considering the risks associated with cyber security threats.

Item 15 – Information Rights and Security Incidents Report

- 59.** ARAC was advised that there had been an increase in the number of data breaches in Q4 compared to Q3. In 2022/23, 94 data breaches had been reported compared to 63 in 2021/22.
- 60.** The main reason for data breaches was incorrect recipient. The number of data breaches had increased due to an increase in email correspondence arising from a higher number of case closures. The Security Forum was closely monitoring this to identify whether there were any other factors driving the increase in data breaches; additional mitigating actions would be taken accordingly.
- 61.** In discussion, members questioned the action being taken to control and reduce the number of data breaches and sought to clarify that the autocomplete function on email addresses had been turned off. In response, ARAC was advised that:
- Consideration had been given to additional interventions, including the introduction of email checks and changes to email software, but this was currently deemed to be disproportionate and would have an adverse impact on operational delivery.
 - The Security Forum would be closely monitoring the situation and would intervene if the number of data breaches continued to rise and would consider issuing reminders to staff and introducing additional training to raise awareness of data security.
 - Staff had been directed to turn off the autocomplete function for email addresses.
- 62.** The ARAC Chair sought to understand the reason for the increase in Subject Access Requests and was advised that the increase was driven by an increase in early case closures where customers disagreed with the decision that had been made.
- 63.** ARAC **noted** the Information Rights and Security Incidents Report.

Item 16 – Feedback from external attendees on the meeting

- 64.** External attendees had no further feedback to report.

Item 17 - Any Other Business

- 65.** There was no other business reported.