

**Minutes of the thirty-fifth meeting of the  
Office for Legal Complaints Audit and Risk Committee  
Monday 22 November 2017  
1.00 pm – 16:00 pm  
National Audit Office, London**

**Present:**

Michael Kaltz, Chair

Rebecca Hilsenrath (*items 4 – 12*)

**In Attendance:**

Rob Powell, CEO

Emma Cartwright, Head of Finance, *by telephone*

Nikki Greenway, Head of IT and SIRO (*items 1-4*)

Gurmit Sangha, FOI & Compliance Officer

Sam Chilvers, Operations Manager

Steven Corbishley, NAO

Archie Rwavazhinji, Assistant Manager, BDO

David Eagles, Partner, BDO, *by telephone*

Mark Andrews, Government Internal Audit Agency

Alison Wedge, Deputy Director, ALB Governance, MoJ (Observer)

Kate Pellett, ALB Governance, MoJ (Observer)

Neil Buckley, CEO, Legal Services Board (Observer)

Martin Smith, National Archives (*items 1-4*)

Marcus O'Doherty, Version 1 (*items 1-4*)

**Apologies:**

Tony King

Kathryn Stone, Chief Legal Ombudsman

Simon Tunncliffe, Director of Operations

Ali Morgan, NAO

Martin Smith, National Archives

**Board Secretary:**

Kay Kershaw

### **Preliminary issues:**

The meeting was inquorate. The Chair directed the Board Secretary to obtain formal ratification of any decisions proposed at the meeting via email correspondence with committee members.

### **Item 1 – Welcome and apologies:**

1. The Chair welcomed and thanked those in attendance. Apologies were noted. There were no declarations of interest reported.

### **Item 2 – Strategic risk register:**

2. The CEO reported that ten of the twelve risks were stable and relative to the position in quarter two. One risk had decreased following the receipt of an additional inflationary uplift provided by the MoJ. One risk had increased due to a combination of inter-related factors, including increased pressure of the timetable for the implementation of the new CMS, staff turnover, single points of failure and balancing change with business as usual. Committee members were assured that all risks were being actively managed.
3. Alison Wedge advised the Committee that changes around delegated authorities within the MoJ in early 2018 should speed up any future financial approvals.
4. It was confirmed that ongoing discussions between the OLC and LSB about 'what good looks like' would affect the credibility risk.
5. The CEO reported on the progress that was being made in regard to developing a forecasting model to mitigate the risk around demand.
6. Discussions were ongoing with the MoJ and LSB about funding to meet the rise in demand for LeO's services in 2018-19.
7. The CEO reported on the success of the ongoing recruitment campaign for pool ombudsmen and the steps being taken to pilot a delivery partner to provide assistance to the ombudsman to address the risk around operational resource.
8. It was noted that risks around IT were focussed on data risks. Unscheduled downtime was now rare, the development of the new case management system is on schedule and the core IT foundations were now in place.

### **Item 3 – Data handling incident report:**

9. There were 6 data handling incidents reported in quarter 2 of 2017/18. This was a significant reduction in the number reported in quarter 2 in 2016/17.
10. The committee reviewed each incident in turn and further background on individual cases was provided by Gurmit Sangha. It was noted that incident number 40 required amendment to state that the data subject was notified of the incident.

**Action: Gurmit Sangha to amend data incident number 40 to state that the data subject was notified of the incident.**

11. Sam Chilvers reported on a number of actions that had been taken in quarter 2 to prevent data security incidents. These included, issuing new guidance, knowledge alerts, process reminders and staff training.

12. Planning for changes associated with the implementation of GDPR were ongoing and included a new data incident reporting site and a focussed initiative planned for quarters 3 / 4 to raise awareness of the types of documents that would benefit from being issued in a more secure way, or potentially not issued at all.

#### **Item 4 – Cyber security workshop:**

13. Martin Smith from the National Archives delivered a workshop on cyber security. The aim of the workshop was to raise awareness of cyber security and help inform the committee's assessment of LeO's management of cyber security risks and data security, especially as the organisation was modernising and moving towards digitisation where complaints would be taken on line and staff would be working more flexibly including potentially using their own devices.
14. It was noted that discussions arising from this workshop would contribute to the agenda for ARAC meetings over the coming months.
15. Martin advised that there were a number of basic actions that organisations could take to protect themselves from cyber security issues, these included technical defences such as firewalls and encryption which, coupled with good standards of data security and information storage used properly by staff, should provide sufficient protection. However most cyber security issues were caused by human behaviour, for example staff errors or perpetrators attempting to infiltrate an organisation's data; regular staff training and reminders of the procedures and guidance in place to prevent cyber security issues was therefore paramount.
16. It was noted that staff should be trusted to follow the procedures and guidance in place, but they should be made aware of the disciplinary actions that would be taken if they were found to be in breach of them.
17. Marcus O'Doherty, provided an update on the technical defences that Version 1 have installed to protect data security at LeO.
18. Alison Wedge reported that the CEO had delivered a presentation on cyber security at the MoJ's ALB SIRO Board and that LeO was considered to be in a good position on cyber security and GDPR implementation.
19. Steven Corbishley shared the National Audit Office's (NAO's) Cyber Security and Information Risk Guidance for Audit Committees which contained a checklist with a number of high level questions and additional areas explore in order to provide organisations and committees with assurance around cyber security.
20. The CEO agreed to return with answers to the questions set out in the NAO's checklist at the next ARAC meeting.

**Action: Board Secretary to include an update from the CEO on the NAO cyber security checklist on the agenda for the next meeting.**

#### **Item 5 – Minutes of previous meeting:**

21. Those present confirmed that the minutes of the meeting held on 18 September 2017 were a true and accurate record and, once formally ratified by committee members, could be published.

**ACTION: Board Secretary to seek formal ratification of the accuracy of the minutes and approval to publish them. Once obtained, the minutes were to be published.**

**Item 6 – Matters arising and outstanding actions from previous meeting:**

- 22. There were no matters arising.
- 23. The update on actions from the previous meeting were noted.

**Item 7 – Update on internal audit actions:**

- 24. The CEO presented an update on internal audit actions. It was noted that four of the 51 actions arising from internal audits since January 2016 were not fully remediated. Of these, two actions related to the performance audit and two to the audit of the financial control framework. Remediation of all four outstanding actions were dependent on the installation of the new case management system in early 2018.
- 25. The Chair requested that the due dates for the completion of these outstanding actions set out in the Summary of Internal Audit Actions paper were updated to reflect the realistic due date for the completion.

**ACTION: Board Secretary to ensure that future Summary of Internal Audit Findings papers were updated to reflect the realistic due date for the completion of any outstanding and deferred actions.**

- 26. The Head of Finance reported on legislative changes which have led to an extension of the debt collection period to 30 days and agreed to provide the Committee with details of the percentage of cases handled by LeO that go through debt recovery.

**ACTION: The Head of Finance to provide details of the percentage of cases dealt with by LeO that go through debt recovery for the next meeting.**

**Item 8 – Internal audit update:**

- 27. Mark Andrews provided an update on the progress made to date on the audit of Performance Statistics, noting that 4 of the 9 objectives were now completed. Sample testing of the statistics was completed on 23 November and a written report would be issued shortly.
- 28. A scoping meeting had taken place in regard to the audit of Attendance Management and Terms of Reference were to be issued shortly.
- 29. A draft of the plan for the Modernising LeO audit had been issued to the CEO for review. It was noted that this audit had been slightly delayed, but the Committee was assured that the audit would be delivered on plan and would commence as soon as the Terms of Reference had been agreed.
- 30. The CEO reported on how the use of a series of question in the form of an issue analysis would help ensure that there was sufficient evidence to support the 'go live' decision. He advised that the Modernising LeO Programme Board were closely monitoring the progress and governance of the Programme.

#### **Item 9 – External audit update:**

31. Steven Corbishley reported that LeO's Annual Report and Accounts for 2016/17 had been certified and laid before Parliament.
32. The NAO was now planning for the 2017/18 Annual Report and Accounts and further details would be reported to the Committee at the next meeting.
33. Alison Wedge advised that there was a departmental expectation that all Annual Report and Accounts would be laid before Summer Recess. In discussion it was agreed that the CEO would provide the Committee with a timetable for the preparation of LeO's Annual Report and Accounts at the next meeting.

**ACTION: The CEO to provide a timetable for the preparation of the Annual Report and Accounts at the next meeting.**

#### **Item 10 – Policy approvals**

34. The updated Anti-Fraud, Bribery and Corruption Policy was presented to the Committee for approval. In discussion it was noted that Pool Ombudsmen would be signed up to this policy which would allow the organisation to search their personal devices in circumstances where there was suspicion that compliance with this policy has been breached.
35. Those Committee members present approved the updates to this policy.

**ACTION: Board Secretary to seek formal ratification from Committee members of the updated Anti-Fraud, Bribery and Corruption Policy.**

36. A review of the IT Systems Operating Policy had been undertaken. In discussion it was noted that this policy was a generic document about the IT function's security procedures and was created in order to comply with ISO27001, which ceased earlier in 2017. The new Security Policy and Acceptable Use of IT policies already covered the key issues and so it was proposed that this policy be deleted from LeO's list of policies.
37. A gap analysis exercise was underway to identify whether there were any elements in this policy that could be incorporated in to the new Security and Acceptable Use of IT policies and, if so, any proposed recommendations would be tabled for consideration at the next meeting.
38. In light of this approach, those committee members present agreed to a proposal to remove the IT Systems Operating Policy from LeO's list of policies.

**ACTION: Board Secretary to seek formal ratification from Committee members of the decision to remove the IT Systems Operating Policy from the list of LeO's policies.**

39. A full review of the Service Complaints Policy had been undertaken in consultation with the Service Complaint Adjudicator, Chief Legal Ombudsman and Chief Executive.
40. Recommendations were made to change the timescales for acknowledging receipt of a service complaint from two to five working days and for issuing a full response to service complaints from 20 working days to one month.

41. Recommendations were made to the way information was presented to customers in order to ensure that it was clearer, simpler and easier for customers to understand the service complaint process.
42. A discussion took place about the recommendation to make clearer that complaints about bias and decisions made on disclosing information held by LeO were outside the scope of the policy.
43. It was noted that the Chair felt that failure to disclose information held by LeO was a potential ground for making a service complaint.
44. The CEO explained that it was LeO's policy to share all information with the parties to a complaint wherever appropriate. However, from time to time, an Ombudsman may determine that a piece of information should not be shared, for example because it did not relate directly to the complaint being investigated.
45. The CEO stated that the OLC's two Independent Service Complaint Adjudicators had felt that it was not within their remit to consider complaints about Ombudsman's decisions such as this, as to do so would compromise the Chief Legal Ombudsman's independence.
46. The Chair felt that before he could approve the update to this policy, he would need to discuss the rationale for determining that decisions made on disclosing information held by LeO were outside the scope of the policy with the Chief Legal Ombudsman.

**ACTION: The Chair to discuss the rationale for determining that decisions made on disclosing information held by LeO were outside the scope of the Service Complaint Policy with the Chief Legal Ombudsman.**

**ACTION: The Board Secretary to note that the update to the Service Complaint Policy was not approved and would need to be followed up after Chair's discussion with the Chief Ombudsman.**

#### **Item 11 – Standing items**

47. The Committee noted the paper on standing items which provided a summary of exception reporting as at period 7.

#### **Item 12 – Any Other Business**

48. There was no other business.

#### **Next meeting**

The next ARAC meeting will be held on 18 January 2018 in London.

**ACTION: The Board Secretary to arrange a venue for this meeting.**