OMBUDSMAN

Minutes of the twenty-ninth meeting of the

Office for Legal Complaints Audit and Risk Committee

Thursday 7 July 2016

10.30am – 1.00pm

Legal Ombudsman, Birmingham

Present:
Michael Kaltz, Chair
Tony King, member
Professor Philip Plowden, member

In attendance:
Nick Hawkins, Chief Executive (CEO)
Kathryn Stone OBE, Chief Legal Ombudsman (CLO)
Emma Cartwright, Head of Finance
Simon Tunnicliffe, Head of Operations (item 4 only)
David Eagles, Partner, BDO (via conference call, items 6, 8 and 9 only)
Charlie Lovlee, BDO (via conference call, items 6, 8 and 9 only)
Chris Davis, Audit Manager, Internal Audit and Assurance, MoJ
Neil Buckley, Chief Executive, Legal Services Board (Observer)

Apologies:
Elizabeth Gibby, MoJ (Observer)
Caroline Mendes da Costa, NAO

Board Secretary:
Helen White

Preliminary issues:
The meeting was quorate.

Item 1 – Welcome and apologies:

1.   The Chair welcomed and thanked those in attendance. The Chair noted
      apologies for absence had been received from Elizabeth Gibby and Caroline
      Mendes da Costa.

2.   The Chair reported that ARAC members had held a private session that morning
      with the internal auditors, without any executive presence. He confirmed that
      ARAC members were reassured and satisfied with the information provided by
      the internal auditor.

Item 2 – Minutes of previous meeting:

3.   The minutes of the meeting of 19 April 2016 were approved.

Item 3 – Matters arising & action points:

4.   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.

5.   Discussion took place on the process for notifying ARAC of any potential high risk cases. The CEO reported that he held weekly meetings with the in-house lawyer and that he and the CLO held monthly meetings with the in-house lawyer to discuss cases which were in the following categories; judicial review, threats to the scheme, financial and reputational risk. He reported that the outputs from these monthly meetings were discussed at management team meetings.

6.   The CLO reported that training had been introduced throughout the operational teams to assess judicial review risk. It was noted that in addition to the training, a list of triggers had been developed to assess risk and where certain triggers were met, the case would quickly be escalated.

7.   It was noted that, in order to provide assurance to the OLC Board, Tony King would be taking the lead on casework oversight which would involve his taking observer status when the sampling and assessment of cases takes place.

8.   Discussion took place on the business combined insurance. The Head of Finance confirmed she was liaising with MoJ colleagues to ensure the correct documentation was raised and process in place for approval should the OLC wish to continue with business combined insurance post-October – the alternative being a formal commitment from the MoJ to underwrite all risks, for which the approval process appears to be complex. As the renewal would be required only shortly after the October ARAC meeting, the CEO to update the ARAC members on progress in September.

ACTION:
The CEO to update the ARAC members on the business combined insurance in September.

9.   Discussion took place on the financial crimes guidance note which the CEO had circulated out of committee to ARAC members. It was noted that the purpose of the document was to provide a guidance note to ensure staff in the operational teams knew the internal protocols to follow. The CEO confirmed that the guidance note had been reviewed and approved by the Head of Operations, in-house lawyer and CLO. ARAC members considered that an operational guidance note

did not require their formal approval – they noted the CEO was satisfied the document provided the necessary operational guidance.

10. It was agreed that the CLO would review the wider suite of guidance currently in place to ensure it provided the necessary width of guidance for staff.

ACTION:
The CLO to review the wider suite of guidance currently in place to ensure it provided the necessary width of guidance for staff.

Item 4 – Data Handling Incident Report

11. Members noted the data handling incident report which had been circulated and read in advance by attendees.

12. The CLO reported that data handling incidents had been a challenge since her arrival in January 2016. She reported that a number of initiatives had been implemented by the executive to reduce the number of incidents. These included mandatory training for all staff, daily reminders on the television monitors, and updates on the corporate intranet plus discussions with staff during one-to-one meetings. She reported that data security awareness across the organisation had been raised and that staff understood that breaches of security would be taken very seriously and could result in disciplinary action being taken.

13. Members raised concern that staff were busy and this combined with sporadic IT issues meant ad hoc workarounds were introduced which could lead to errors. Discussion took place on custom and practice within the organisation and whether such practices should be challenged and where necessary, changed.

14. It was noted that the internal auditors had conducted an audit on data protection. Whilst the draft audit report had not yet been issued, the internal auditor reported that initial findings had found that although policies, instructions and guidance were in place, there was too much information for staff to easily digest. The recommendation would be for key information to be streamlined.

15. The internal auditor reported that the audit had found that there was a lack of understanding amongst staff about data classification and the impact this had on how the data was handled. It was noted that there was no means of marking data on the IT system which in turn meant staff were unsure how such data should be handled.

16. It was noted these recommendations would be discussed further by executive, once the draft audit report was issued.

17. Discussion took place on the communication methods used within the organisation for the collection of personal information. It was agreed the executive would review whether the current methods followed wider best practice.

ACTION:
The CLO to review the communication methods for the collection of personal information to ensure it followed wider best practice.

18. Discussion took place on the possible introduction of an electronic 'handshake' to reduce data breaches. It was agreed the executive would introduce this at the start of the business process, before any case goes onto the CRM system.

ACTION:
The CLO to work on the introduction of an electronic handshake to mitigate the risk of data breaches.

19. It was agreed that 'auto complete' would be disabled within the email system. The CEO would ensure the IT team put this in place.

ACTION:
The CEO to ensure the IT team disable the 'auto complete' function on the email system.

20. It was noted that the CRM system did not track email bounce backs. Members agreed that resolving this could provide another element in preventing errors.

ACTION:
The CEO to discuss with the Head of IT whether it would be possible for the CRM system to track email bounce backs.

21. Discussion took place on one incident where personal data (a bank statement) had been sent to a third party and whether the incident was self-reportable to the ICO. The CEO stated that as SIRO he would take the decision whether to report the incident taking into account the required criteria. Members agreed that in principle it was the CEO's decision to take on any particular case.

22. The ARAC Chair requested that Appendix 2 within the Data Handling Incident Report be removed as it summarised the guidance too much and was, he believed, misleading, missing the point of the examples and losing the safety-net concept that "If the data controller is unsure whether or not to report, the presumption should be to report". He asked that the CEO and the compiler of the report have regard to the ICO guidance document on self-reporting (attached to minutes as Appendix A).

23. In summary, the executive were requested to produce a report detailing the mitigating actions agreed above together with timescales for implementation.

ACTION:
The CLO to produce a report detailing the mitigating actions agreed to address data security breaches together with timescales for implementation.

Item 5 – Annual Health and Safety Compliance Report

24.   Members noted the report. There were no questions raised.

Item 6 – Corporate Risk Register

25.   The ARAC Chair summarised the paper which had been distributed to attendees. He reported that it was opportune to obtain feedback from the external attendees at ARAC on the current content of the corporate risk register.

26.   Discussion took place on the current document. It was agreed that it was lengthy compared to organisations of a similar size and was too operational which would not meet the assurance objectives of the ARAC Committee.

27.   It was suggested that to provide assurance, on a cyclical basis ARAC would continue to invite departmental heads to attend to review their individual risk registers. This would assure ARAC that the management of risk and governance arrangements were flowing correctly.

28.   The CEO reported that the work being undertaken within the organisation to review the risk register had focussed the executive's attention on reviewing their risks. He reported the executive would take the comments on board and would work to update the corporate risk register, working with ARAC members out of committee, to ensure an updated document was produced ready for the next ARAC meeting in order that it could then come before the October Board.

ACTION:
The Head of Finance to update the corporate risk register and work with ARAC members out of committee to finalise the document ready for the October ARAC meeting.

29.   The Head of Finance reported that the MoJ Internal Audit team would be providing some training for Arms' Length Bodies on MoJ best practice. She would progress this.

ACTION:
The Head of Finance to liaise with MoJ Internal Audit on the provision of training for Arms' Length Bodies on MoJ best practice.

30. ARAC members thanked the Head of Finance for the work undertaken to progress the risk register.

Item 7 – Internal Audit Reports

31. Internal Audit reported that all internal audit reports for the 2015/16 audit schedule had been finalised and circulated. He reported the internal audit opinion remained the same.

32. A verbal update was provided on the current year's work. Two pieces of work were currently being undertaken. The internal audit on data protection had been completed and initial findings had been provided to the executive. The draft report was in production and would be issued shortly.

33. It was noted the second internal audit was named "operational productivity". It had been agreed with the executive and ARAC members that this audit would focus on the integrity, accuracy and completeness of operational performance data. It was noted field work had commenced.

34. Internal Audit reported that the executive accepted and acted on their recommendations, which was encouraging.

Item 8 – External Audit Update

35. Charlie Lovelee provided a verbal update on the progress of the external audit. He reported that due to insufficient resource the audit had been delayed which resulted in the systems and controls work being undertaken during the June site visit. It was noted that 50% of the work had now been completed and that another team were booked in for July to complete the testing work with the aim of completing all the audit work in time for the October ARAC meeting.

36. It was noted that to date, there were only minor issues found, which external audit noted was a huge improvement on the previous year. One misclassification in the mapping process had been found which would be adjusted. There was also a control point with debtor write-offs being provided for rather than being written off which was identified as a timing issue with the delegated authorities and approvals for write off process and controls.

37. Neil Buckley queried whether the Annual Report would be produced in the old format or the new format. He noted that the LSB would require the new format unless the NAO confirmed they would accept the old format. The CEO would liaise with the NAO to obtain their confirmation.

ACTION:
The CEO to liaise with the NAO regarding the format for the Annual Report.

38. The ARAC Chair referred to the NAO Good Practice Audit Committee Checklist which states that ARAC should review the first draft of the annual accounts before the External Auditors start work on them. It was noted that the timing of the audit had not allowed the correct process to be followed. It was agreed that this would be noted for future timetables.

ACTION:
The Head of Finance to note the NAO Good Practice Audit Committee Checklist for future Annual Report timetable planning.

39. It was agreed that the Head of Finance would share the first draft of the annual accounts with ARAC members within the next week.

ACTION:
The Head of Finance to share the first draft of the annual accounts with ARAC members within the next week.

40. Discussion took place on the formal laying of the 2015/16 Report and Accounts. It was noted that the OLC needed to present the Annual Report to the LSB who in turn would submit it to the Lord Chancellor. It was agreed that the CEOs of the OLC and LSB would discuss the timetable offline.

ACTION:
The CEO's of the OLC and LSB to discuss the timetable for the laying of the 2015/16 Annual Report and Accounts.

41. It was agreed that for the 2016/17 Annual Report the aim would be for an early laying date.

Item 9 – Policy Cycle Update

42. Discussion took place on the policy cycle schedule. The ARAC Chair noted that a number of the ARAC sponsored policies were out of date for annual review. The executive were asked to ensure the reviews were undertaken as scheduled.

ACTION:
The CEO to ensure the policy reviews were undertaken as scheduled.

43. The internal auditor noted that a number of the policies listed overlapped, such as the Information Management Policy which could include a number of the other separate IT policies.

Item 10 – Financial Approvals

44.   It was noted that there were no capital items sought for the current period.

45.   The Head of Finance reported that the Procurement Officer was due to start shortly and part of her role would be to ensure the financial approvals and business cases were all in order.

Item 11 – Any Other Business

46. The ARAC Chair requested the Board Secretary schedule a review of the ARAC Terms of Reference.

ACTION:
The Board Secretary to schedule a review of the ARAC Terms of Reference.

47. The ARAC Chair requested the Board Secretary circulate the Audit Committee self-assessment checklist for completion by ARAC members.

ACTION:
The Board Secretary to circulate the Audit Committee self-assessment checklist for completion by ARAC members.

Next meeting

48. The date for the next ARAC meeting would be Thursday 6 October in London.

Helen White
Board Secretary