

**Minutes of the Forty-Fifth Meeting of the
Office for Legal Complaints Audit and Risk Committee
Friday 15 May 2020, by video call**

Members Present:

Shrinivas Honap, Chair

Rebecca Hilsenrath

Annette Lovell

In attendance

Elisabeth Davies, OLC Chair – observing

Rebecca Marsh, Chief Ombudsman (CO)

Brendan Arnold, Director of Corporate Services (DCS) and SIRO

Steve Pearson, Head Ombudsman

Michael Letters, Financial Controller – observing

David Winks, Ministry of Justice (MoJ)

Chris Davis, Government Internal Audit Agency (GIAA)

David Eagles, BDO, External Audit, by telephone

Steven Corbishley, National Audit Office (NAO) F

Matthew Hill, CEO, Legal Services Board (LSB)

Ella Firman, National Audit Office (NAO)

Laura Stroppolo, Business Performance Manager (items 4,5 and 6)

David Anderson, Head of ICT and Information Governance (items 10 and 11)

Rakhi Patel, Interim Head of Finance (items 6 and 7)

Alex Moore, External Affairs Team Leader (item 6)

Kerensa Scott – Executive Assistant.

Apologies:

Nuwan Indika, BDO, External Audit

Alison Wedge, Ministry of Justice (MoJ)

Mark Andrews, Government Internal Audit Agency (GIAA)

Board Secretary:

Kay Kershaw

Item 1 – Welcome, apologies and preliminary matters

1. The Chair welcomed those in attendance and introductions took place.
2. Apologies were noted.
3. The meeting was quorate.
4. Shrinivas Honap reported that he had been appointed to the Board of the Lower Level Nuclear Waste Company.

Action: Board Secretary to update the Board Member Register of Interests.

5. There were no other declarations of interest reported.
6. The ARAC forward plan that had been circulated for information prior to the meeting.
7. The Chair changed the order of discussion of the agenda items. The minutes reflect these changes.
8. Attendees provided their agreement to the meeting being recorded for the purpose of the minutes on the understanding that the recording would subsequently be deleted.

Item 2 – Previous minutes

9. The Committee **approved** the minutes of the meeting held on 2 March 2020 as an accurate record of the meeting.

Item 3 - Outstanding actions from previous meetings and matters arising

10. The DCS provided an update on action 6 paragraph 41 of the previous minutes advising that a meeting had been scheduled with the MoJ's Head of Counter Fraud to discuss the next steps in further strengthening the OLC's overall response to fraud risk. It was **agreed** that he would update ARAC on the outcome of this meeting and what had been agreed in terms of the next steps.

ACTION: The DCS to update ARAC on the outcome of the meeting with the MoJ's Head of Counter Fraud and what had been agreed in terms of the next steps.

11. The Chair clarified that the general lessons learnt following the invocation of the Business Continuity Plan (BCP) in response to the COVID-19 emergency would be presented to the Board and any risks pertaining to the operation of the BCP and any modifications that may be required would be presented to ARAC.
12. The DCS advised that a workshop on the Top 10 Risks would be taking place at the June Board meeting.
13. The Chair confirmed that, further to discussions at the March ARAC meeting, he had alerted the OLC Board to the concerns raised by the LSB about the OLC's 2020/21 budget as presented at the time. At an extra-ordinary Board meeting on 13 March, the Chair of ARAC had outlined the risks associated with this budget and subsequently the OLC had agreed a final cost-based budget for submission to the LSB.
14. Committee Members raised strong concerns about the quality of the ARAC papers and the timing of their dispatch, stressing that in order to discharge their responsibilities the papers must be issued in enough time for them to read and consider their contents.

15. The Committee **noted** the update on actions arising from previous meetings.

Item 4 – Risk Assurance Review

16. The DCS presented the Risk Assurance Review paper, which included updates on the strategic and business unit risk registers, the risk registers for the COVID-19 emergency and revised budget, the assurance map, Internal Audits and associated actions.

17. The DCS updated the Committee on three internal audit actions that remain outstanding:

- Payroll Audit - action is awaited by Coventry City Council to complete this outstanding action.
- Financial Management (Payments) Audit - the version of SAGE used by LeO does not have the facility to archive supplier accounts and discussions are taking place with SAGE to identify a technical solution. If one cannot be found, LeO will engage with GIAA to identify an alternative recommendation to address this risk.

The Chair asked whether an alternative solution might be to delete the supplier account and archive the previous invoice history. The DCS **agreed** to check whether LeO was able to do this and to update the Committee on how this outstanding action is to be resolved.

ACTION: The DCS to provide an update out of committee on how the action to archive supplier accounts is to be resolved.

- Financial Management (payments) audit – the action to update and cross check the contracts and tender registers is underway and expected to be completed by the end of the first week of June.

18. The Chair raised awareness of the potential financial risks faced by smaller suppliers as a result of the COVID-19 emergency and suggested that LeO might consider introducing six-monthly credit reference agency checks on its smaller suppliers to monitor this potential risk.

ACTION: The DCS to consider whether LeO has the capacity to introduce six-monthly credit reference agency checks on its smaller suppliers to monitor potential financial risks.

19. ARAC **noted** the information set out in the risk assurance review paper but strong individual concerns were expressed about the overall lack of assurance in respect of LeO's management of risk.

20. Despite ARAC input over the last 12 months to help LeO develop and improve its management of risk, it was felt that the key areas of risk, the priorities and the controls were still not adequately explained in a way that provided the level of assurance required. The limited findings of two internal audits, the subsequent letter received from the Permanent Secretary and the findings of the budget learning review added to ARAC's concerns.

21. The Chair recommended that external expertise was procured to help the Executive to develop an improved risk management framework. The Chair recommended that this was

undertaken by someone with no preconceived knowledge of the OLC or its key stakeholders.

22. The LSB offered to share its experience of overhauling its risk management.
23. The CO confirmed that preliminary discussions were taking place with the MoJ about obtaining the professional support required to address these concerns. The CO **agreed** to write to ARAC out of committee to update them on these discussions and to present a final proposal to ARAC in due course.
ACTION: The CO to write to ARAC out of committee to update them on the preliminary discussions taking place with the MoJ to obtain professional support for risk management.
ACTION: The CO to present ARAC with the final proposal on how LeO's risk management framework will be improved.
24. The Chair commended the IT Team on the work undertaken to reduce the risks around cyber security. He added that further improvement would be seen if LeO had the ability to undertake predictive reporting and analysis but acknowledged that this would have budgetary implications.

Item 5 – Internal Audit:

25. The Committee received papers setting out GIAA's draft Annual Report and Opinion, the revised 2020/21 audit plan and final audit reports on Cyber Security and Payroll and Financial Management (Payments).
26. The audit on Cyber Security received a moderate opinion.
27. The audits on Financial Management (Payments) and Payroll i received unsatisfactory audit opinions based on perceived risks. The Executive had subsequently commissioned GIAA to undertake follow up work on these audits.
28. Based on the findings of audits undertaken during 2019/20, observations and discussions at meetings, GIAA reported that it would be providing a limited indicative annual opinion on the framework of governance, risk management and control within the OLC for 2019/20.
29. As a result of the unsatisfactory audit findings and wider concerns about OLC's financial governance, the Permanent Secretary wrote to the OLC Chair seeking assurance that appropriate standards of financial governance were in place.
30. The Permanent Secretary issued a separate letter to the CO seeking an update on the implementation and assurance on the effectiveness of the action plans that had been put in place to address the findings of both audits.
31. The OLC Chair explained the process she would be following in order to make an assurance assessment before responding to the Permanent Secretary which included: meeting with Internal and External Audit; meeting with the ARAC Chair, CO, DCS and Financial Controller, and seeking the views of ARAC.
32. In seeking the views of ARAC, the OLC Chair asked the Committee to provide assurance that the appropriate standards of financial governance were in place, to identify the critical

standards that should be referenced in her response to the Permanent Secretary and to identify where the OLC was unable to meet them.

33. ARAC felt that it would be difficult to respond to the specific questions asked by the OLC Chair within the timeframes given for responding to the Permanent Secretary because it could not currently provide absolute assurance on the efficacy of the actions identified to address the audit findings. At this stage ARAC could only offer limited assurance.
34. Absolute assurance could only be provided once GIAA had completed its follow up work and ARAC had been assured on the adequacy of the improved systems and processes put in place and that there had been no financial mismanagement.
35. GIAA confirmed that the follow up work on Payroll had been undertaken. This work involved testing 100% of one quarter's transactions to determine whether there had been any fraud or loss to the organisation. No evidence of any fraudulent transactions or any significant loss to the organisation had been identified. A significant number of transactions had been identified with errors upon them; some had been previously identified through checks carried out by the management and had been corrected, others were still in the process of being resolved. None of these errors were of significant value and they related to both under and over payment.
36. GIAA reported that they were unsurprised by these findings of this follow up work and felt that it would be highly unlikely to identify any other findings if further testing was undertaken. GIAA therefore proposed that this follow up work was now ended.
37. LeO has issued a formal request to GIAA asking for a similar exercise to be undertaken in respect of payment transactions.
38. GIAA suggested that the audit of Financial Management, planned for Q3 2020/21, was also drawn to the Permanent Secretary's attention, adding that scoping for this audit could take into consideration the financial systems and designs with a view to giving further assurance on overall financial control.
39. ARAC discussed the capability and skill set required within the Finance Team and recommended that any necessary training was provided to ensure that staff were able to meet the financial challenges faced.
40. The CO reported that discussions were taking place with the MoJ's Deputy Director of ALB Finance about MoJ support that could be provided to help LeO develop more effective financial systems and processes.
41. The OLC Chair thanked ARAC for its feedback.
42. Having considered the discussions that had taken place at this meeting and the concerns raised around risk management and governance, the NAO strongly advised the OLC to review the Governance Statement that was set out in the draft 2019/20 Annual Report to ensure that it properly presented the state of the organisation and a clear opinion on the effectiveness of internal control.

ACTION: OLC to review its Governance Statement to ensure that it was consistent with the state of the organisation and presented a clear opinion on the effectiveness of internal control.

43. The CO assured ARAC that substantive assurance work was being undertaken and she would not be finalising the Annual Report and Accounts until this had been done.
44. The Chair assured NAO that ARAC would review the revised Governance Statement before it was presented to the OLC Board for approval.
45. ARAC reviewed the 2020/21 Internal Audit planning report and timetable and **confirmed** that it was broadly in support of the plan.
46. The Committee discussed whether it would be possible to bring forward the timing of the Financial Management audit. It was **agreed** that consideration would be given to whether this would be feasible.

ACTION: DCS and GIAA to consider the feasibility of bringing forward the date of the Financial Management Audit and if so, identify a revised date for this audit.

47. The OLC Chair reported that, following the budget learning review, OLC Board had committed to setting up a Performance and Quality Task and Finish Group and there might be some alignment of the work undertaken by this group to elements of Workforce Planning audit.
48. The ARAC Chair asked the Executive for the opportunity to review and comment on future audit Terms of Reference before they are finalised.

ACTION: The Executive to consider sharing future audit terms of reference with the ARAC Chair to review and comment on before being finalised.

49. ARAC discussed a proposal put forward by the Chair for an audit on Performance and Performance Management (Operations) to be included in the 2020/21 audit plan.
50. Having considered this proposal, it was **agreed** that before this audit was commissioned, the Executive would first be asked to provide ARAC with a clear position on the control environment around performance management. If ARAC was insufficiently assured by this, the Chair would then ask for the audit be added to the plan for 2020/21.

ACTION: The Executive to provide ARAC with a clear position on the control environment around performance management at its next meeting on 1 July.

Item 6 – Draft 2019/20 Annual Report and Accounts

51. Considering the comments raised earlier in the meeting, the Chair felt that there was little benefit in undertaking a detailed review of the draft 2019/ 20 Annual Report and Accounts (ARA), as presented at this meeting.

52. In discussion, it was **noted** that:

- The Chair had submitted an ARAC statement for inclusion in the ARA.
- The Chair had reviewed the accounting financial statements, reviewed the compliance with accounting policies and reviewed the 2019/20 accounts (which were awaiting the final figures).
- The CO would review the Governance Statement.

- The CO would update the ARA project plan to include any additional intermediate steps that were required to ensure the ARA was completed on time and that the appropriate level of engagement with ARAC and Board was factored in.

53. It was recommended that the narrative of the report was reviewed to ensure that it presented a true reflection of the year, particularly in terms of performance and the budget application process.
54. It was recommended that the Board offered a pro-active steer in terms of what the ARA should look like rather than taking an iterative approach as it had done in the past.
55. The CO was asked to consider whether it would be helpful to convene an ARAC conference call to review the ARA before it was presented to the Board.

ACTION: The CO to consider whether it would be helpful to convene an ARAC conference call to review the ARA before it was presented to the Board.

Item 7 – Budget Learning Review

56. To OLC Chair reported on the background to the budget learning review, the approach taken to conducting the review and its findings.
57. ARAC welcomed budget learning review and the opportunity consider its role going forward to ensure that the same problems weren't repeated and felt that the findings were fair and helpful. There was a vast interdependency between all the finding, which also linked to issues in other areas of the business and would therefore need to be considered both individually and more broadly going forward.
58. In discussion, ARAC suggested that in the future it would like to see:
- an improved level of engagement with the Executive in order to ensure that discussions are more strategically focussed and adequate levels of assurance were provided.
 - better processes in place at Board level to ensure that the Board agrees a clear, budgetary position;
 - ARAC's role in the budget process clarified to include:
 - Responsibility for examining the budget approved by the Board to identify any delivery risks.
 - Responsibility for continually monitoring budgetary risks
 - Responsibility for identifying any additional risks that arise during the year.
59. The Board would continue to discuss the budget learning review.
60. The OLC Chair was likely to maintain oversight of the budget learning review (but would be following this up with MoJ and LSB who were also in receipt of the findings of the budget learning review).
61. It was agreed that the ARAC Chair and OLC Chair would consider whether the ARAC Terms of Reference would need to be updated to clarify ARACs role in the budget process.

ACTION: OLC Chair and ARAC Chair to consider whether the ARAC Terms of Reference would need to be updated to reflect ARACs role in the budget process.

Item 8 – Annual Fraud Report

62. The DCS presented the Annual Fraud Report, providing ARAC with an annual update on Fraud risk. The paper set out details of the documents and procedures in place to present fraud, an assessment of the overall position on fraud risk against Annex 4.7 of Managing Public Money, the fraud risk register and the controls in place to mitigate fraud risks.
63. The level of fraud risk was reported to be generally low to medium and there was ongoing engagement with the MoJ's Head of Counter Fraud to further strengthen the OLC's overall response to fraud risk.
64. The Chair recommendation that details of how the overall fraud risk had been analysed was included in future Annual Fraud Reports.
65. THE DCS advised that some of the policies in place to deter fraud were due to be reviewed; once completed, these policies would be brought back to ARAC for review.
66. The OLC Chair asked whether ARAC had been suitably assured on the compliance with these policies. In response, the ARAC Chair reported that he was comfortable that there was a robust whistleblowing process in place, but the Committee did not receive specific reporting against the other policies.
67. The DCS **agreed** to present a paper at the October meeting setting out where a fraudster might interact with the organisations processes and what would be done about it.

ACTION: The DCS to present a paper at the October meeting setting out how details of how a fraudster might interact with the organisation's processes and what would be done about it.

68. ARAC **noted** the Annual Fraud report.

Item 9 – Information Commissioner's Audit Update

69. The DCS presented an update on the progress made in addressing the actions arising from the Information Commissioner's (ICO) Audit undertaken in March 2019.
70. A project is to be set up to address the actions associated with records management. It is expected that this project will take 12 months to complete. The records management work programme will be shared with ARAC once finalised.

ACTION: The DCS to present ARAC with the Records Management work programme once finalised.

71. The DCS assured the Committee that every effort was being made to urgently address the ICO audit actions, but some of the actions were wide ranging and related to large suites of digital data and therefore could not be completed in the short term.
72. It was **agreed** that an update on the progress being made against the ICO audit actions would be presented to ARAC out of Committee in June.

ACTION: The DCS to circulate an update on the progress being made against the ICO audit actions to ARAC out of Committee in June.

73. ARAC noted the update on the ICO audit actions.

Item 10 - Information Rights and Security Incidents

74. The Head of ICT and Governance presented a paper setting out an update on information rights and security incidents.
75. A broad downward trend in the number of security incidents was reported. The number of reported incidents in Q4 were similar to those reported in Q3.
76. Improved collaboration through the Security Forum was having a positive impact on reducing security incidents. Initiatives to address the number of incidents relating to 'incorrect recipients' and 'non-breaches', had resulted in a reduction of the number of incidents in each of the categories.
77. Whilst the number of incidents relating to 'incorrect email and incorrect postal address' had reduced, the Security Forum was to focus of further reducing the number of incidents in these categories over the next year.
78. A small rise in the number of 'Physical Security' incidents had been seen. The recent installation of security gates was expected to have a significant impact on reducing future incidents.
79. The Chair sought assurance on how confidential information was being protected by staff working from home and was advised that this was being addressed at the policy level. There were limited technical measures that could be taken to stop people printing from home and those that were available were restrictive and would have cost implications.
80. The Chair suggested that staff were regularly reminded of the data protection policies.
81. ARAC was assured on the security of information held in LeO's office.
82. ARAC commented on how the data protection practices and policies adopted by the organisation during lockdown were likely to become permanent going forward as new ways of working were developed.
83. ARAC noted the Information Rights and Security Incidents update.

Item 11 – Attestations and single tenders report

84. The Chair asked the DCS to confirm how many contracts were agreed on a single tender basis and to clarify how the organisation knew that there were no other possible suppliers for the WAN cloud connect services.

ACTION: The DCS to confirm the number of contracts agreed on a single tender basis at the July meeting.

ACTION: The DCS to confirm and how the organisation knew that there were no other possible suppliers for the WAN cloud connect services at the July meeting.

85. ARAC commented that there was a higher number of single tenders that they would expect to see.

86. Following discussion, the DCS **agreed** to define the attestations and single tenders process to assist ARAC in understanding its role in dealing with this report and to ensure that more detailed information (including dates) was included in future reports.

ACTION: The DCS to define the attestations and single tenders process and to ensure that more detailed information (including dates) was included in future reports.

87. ARAC **noted** the attestations and single tenders reported.

Item 12 – External Audit update

88. Further to discussions held earlier in the meeting, External Audit implored the Executive to complete its due diligence around standards of governance within the organisation and to re-frame the Governance Statement accordingly.

89. NAO explained the implications of any delay to the ARA timetable and asked the Executive to alert them at the earliest opportunity if the revision of the Governance Statement was likely to impede the delivery of the final ARA within the timetable.

90. The CO reported of changes to the ARA timetable resulting from changes to the dates that parliament sits. The OLC's ARA were now due to be laid on 14 July rather than 16 July.

91. BDO is to commence the final audit on 18 May and will look at the accounts in the first instance until the revised Governance Statement has been made available to them. They asked for the revised Governance Statement to be sent to them within the next 2 to 3 weeks.

92. BDO reported that the interim audit work did not identify any issues for concern, however the review of the Q3 consolidation return cannot be completed due to several outstanding queries relating to inconsistencies and mapping issues reported at the end of March to the Finance Team. The DCS asked BDO to send details of these outstanding queries to him so that he could follow them up.

ACTION: BDO to forward details of the outstanding queries relating to the Q3 consolidation return to the DCS to follow up with the Finance Team.

93. Auditors warned that if any issues were to arise as a result of remote working and the provision of evidence electronically, it might be necessary to review the timetable.

Item 13 – Any other business.

94. The Committee provided feedback on the meeting, which included:

- Comments on the quality and timing of papers and the implications in terms of the efficacy of meetings.

- Positive comments on how ARAC was getting to grips with some difficult issues which would help to put the organisation in a better place to deliver its objectives.
- Comments on the challenges that lay ahead for the organisation about its improvement journey.