

**Minutes of the Forty-First Meeting of the  
Office for Legal Complaints Audit and Risk Committee**

**Monday 15 May 2019**

**13:00 – 13:30**

**Edward House, Birmingham**

**Present:**

Shrinivas Honap, Chair

Rebecca Hilsenrath

Annette Lovell

**In Attendance:**

Rebecca Marsh, Chief Ombudsman

Brendan Arnold, Director of Corporate Services (DCS), Designate

Emma Cartwright, Head of Finance

Sarah Ritzenthaler, Parliamentary and Policy Associate (item 5)

Nikki Greenway, SIRO and Head of Information, Technology and Governance (IT & G)  
(item 9)

Emma Ireson, Programme Manager (items 4, 7, 8 and 9)

Alison Wedge, MoJ

David Winks, MoJ

Chris Davis, Government Internal Audit Agency (GIAA)

David Eagles, BDO, by telephone

**Observers:**

Wanda Goldwag, Chair of OLC

**Apologies:**

Neil Buckley, CEO, Legal Services Board

Steven Corbishley, National Audit Office

Ella Firman, National Audit Office

David Bartlett, MoJ

Mark Andrews, Government Internal Audit Agency (GIAA)

Nuwan Indika, BDO, External Audit

**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. Annette Lovell declared that she was an employee of the Financial Ombudsman Service (FOS).
5. There were no other conflict of interests declared.
6. The Chair formally thanked the previous Chair, Michael Kaltz, for his leadership of ARAC.
7. The Committee **noted** the ARAC forward plan that had been circulated for information prior to the meeting.
8. The Committee formally **ratified** a decision made out of committee on 27 March 2019 to approve the Whistleblowing policy.

### **Item 2 – Previous minutes**

9. The Committee **approved** the minutes of the meeting held on 11 March 2019 as an accurate record of the meeting.

### **Item 3 - Outstanding actions from previous meetings**

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

The Chair reminded the Executive that reference to the identified Macpherson Business Critical Model, identified following a review undertaken by the former CEO, must be reported in the OLC's Annual Report and Accounts for 2018/19.

**ACTION: Executive to ensure that the identified Macpherson Business Critical Model is reported in the Annual Report and Accounts for 2018/19.**

### **Item 4 – Strategic risk register**

11. The DCS designate presented a paper summarising the current position on strategic risk, reporting that the strategic risk register had been updated to reflect the amended strategic risks agreed by the OLC in March 2019.
12. Two of the five strategic risks were currently at target and three were above target. Of those risks, three were stable and two, Operational Resource and Organisational Capacity and Capability, were falling. The RAG status of the Operational Resource risk had reduced from black to red to reflect this.
13. Four of the corporate risks were at target. The remaining corporate risks were above target. None of the corporate risks had increased. The governance control risk had reduced following the appointment of a permanent DCS and a refresh of LeO's governance framework. The risk relating to culture and ways of working had also reduced.
14. A discussion took place about what benefit there was in reporting unit cost as key performance indicator when there was no external agreement on how it should be measured or benchmarked. The Committee questioned whether the current metric

used was sensible and whether it was right to judge the organisation by this metric. Alison Wedge offered to give this matter some further consideration.

15. It was **agreed** that the updated risk register would be tabled at the October meeting.

16. The Committee **noted** the update on strategic risks.

#### **Item 5 – Annual Report and Accounts – first draft**

17. The Committee reviewed the first draft of the 2018/19 Annual Report and Accounts.

18. The Annual Report and Accounts are to be presented to Lord Keen on 27 June 2019.

19. Members provided general feedback on this draft document. Some suggestions for improvement were made, including:

- To include comparative statistical data from previous years where appropriate.
- To include more narrative around staff turnover, including the action taken to address it and to add Civil Service benchmark data.
- To include more narrative around the increase in unit cost linking it to performance, capital and operational expenditure.
- To reduce repetition where possible.

20. A discussion took place about improving the format of future Annual Report and Accounts and Alison Wedge suggested that the OLC might consider adopting the format used by another MoJ ALB.

21. Members **agreed** to provide their individual detailed feedback to the Chief Ombudsman by the close of business on 16 May.

22. The Committee **noted** the first draft of the Annual Report and Accounts 2018/19.

#### **Item 6 – External Audit update**

23. David Eagles reported that the external audit of accounts would commence on Monday 20 May.

24. The Chair asked to be notified immediately if the audit identified anything that would qualify the accounts.

25. The Head of Finance confirmed that an automatic re-charge to the Financial Ombudsman was in place for CMC costs.

26. The Committee **noted** the External Audit update.

#### **Item 7 – Internal Audit update, including annual report and opinion 2018/19**

27. Chris Davis presented a paper setting out the progress made against the 2018/19 internal audit plan, the annual audit opinion and a summary of audit findings.

28. All audits agreed in the audit plan for 2018/19 had been completed and work had commenced on the audits scheduled for quarter 1 of 2019/20.

29. The annual audit opinion, based primarily on the work completed in 2018/19, provided a 'moderate' level of assurance regarding the OLC's framework of

governance, risk management and control. This is the second highest opinion of the four available opinions.

30. The Committee **noted** the progress made by internal audit.

#### **Item 8 – Update on Internal Audit actions and final audit reports**

31. A paper setting out the progress made with actions arising from internal audits since the last ARAC meeting was presented to the Committee, along with the final audit reports on the Operational Forecasting and Capacity Model and the Financial Control Framework (Spending Controls).
32. All actions from the Business Continuity and Infrastructure Contract Management had been completed.
33. The deadline for an action arising from the audit of the Financial Control Framework had been extended, initially due to delays in implementing the new CMS and subsequently due to resource constraints. This action related to the recovery of debt.
34. The Head of Finance reported that she hoped that this action would be completed within the revised deadline of June 2019, but this would be dependent on issues being resolved within the new CMS.
35. In response to a request by the Chair, the Head of Finance agreed to provide him with details of the value of outstanding debt in relation to case fees.  
**ACTION: Head of Finance to provide the ARAC Chair of details of the value of debt outstanding in relation to case fees.**
36. The deadline for an action arising from the audit of Stakeholder Management had been extended to July and was reliant on external organisations for its completion.
37. The final outstanding action arising from the audit of Implementation of EU GDPR Regulations was due to be completed by the end of May.
38. The Chair asked the Executive to inform him in advance of ARAC meetings of any future changes to deadlines for actions arising from internal audits.
39. Chris Davis confirmed that the internal audit schedule included follow up time to allow auditors to satisfy themselves that actions from previous audits had been completed.
40. The Committee discussed the findings of the Operational Forecasting and Capacity Model audit. In response to concerns about resilience and single points of failure, the Executive advised that a Management Accountant had been appointed and would be trained to use the Operating Forecasting Model. The Committee recommended that the process for using the Model should also be documented so that others could refer to it as required.
41. The Committee discussed the findings of the Financial Control Framework (Spending Controls) audit. The MoJ welcomed the assurance that this audit provided in light of the fines being issued to some ALBs by the Treasury for breaching spending controls.

42. The Committee **noted** the update on Internal Audit actions and the findings of the Operational Forecasting and Capacity Model and the Financial Control Framework (Spending Controls).

## **Item 9 – Information rights and security update and policy reviews**

### Information Rights and security update

43. The Head of IT and Governance (IT & G) and SIRO presented a paper setting out a quarterly update on information rights and security incidents.
44. Security incidents had been separated to report on those that constituted a breach and those that did not and the information rights table had been amended to provide greater clarity when reading.
45. Of the 44 incidents reported in quarter 4, 18 constituted a breach compared to 19 in the previous quarter. Themes arising from incidents were comparable to previous quarters.
46. The Data Protection and Information Compliance Officer (DPICO) continues to work closely with operational teams to mitigate the risks around information being sent to the incorrect recipient or incorrect address.
47. No enforcement action was taken by the Information Commissioner's Office in regard to the four incidents reported to them in 2018, but recommendations were made and were being acted upon.
48. A draft report had been received following the voluntary Information Commissioner's Office audit. A final report is awaited following the submission of LeO's responses, including factual accuracy corrections and the submission of further evidence. The report would be shared with ARAC in due course. In the meantime, actions were already being implemented.
49. The current DPICO leaves the organisation in May; a replacement has been appointed (subject to references and checks).
50. The number of information rights requests received remained high and broadly in line with the previous quarter. The Committee discussed the challenges and implications of the significant increase in the volume of information requests received.
51. The Committee discussed the pros and cons of sharing a Data Protection Officer with another local ALB but, on balance, it was felt that this may not be a practical option.
52. The Chair asked about the steps taken by the organisation to monitor and protect its systems against fraudulent activity. In response, the Head of IT & G confirmed that independent third party penetration testing had taken place.
53. The Chair sought further assurance on how the organisation would stop hackers getting through the different levels of security. An action plan should be produced, this to be tabled at the October meeting.

**ACTION: A report to be tabled at the October meeting by the Head of IT & G.**

54. Following discussion, the Committee **noted** the update on information rights and security incidents.

Policy reviews:

55. In light of changes to the Senior Management structure in March 2019, the Procurement Policy, Gifts and Hospitality Policy, Critical Incident Protocol, Acceptable Use of IT Policy and the Business Continuity Plan were all updated to remove references to the 'Chief Executive Officer' and replace them with 'Chief Ombudsman'.

56. ARAC **noted** the amendments made to these policies.

57. In line with a rolling programme of policy reviews, reviews of the Information and Data Protection and Access to Information policies had taken place and it was determined that no changes, other than to update the version change and review date to the header page and footers, were required.

58. The Committee was informed that that the Information and Data Protection Policy would require a change in the future to update the name of the new DPICO once they were in post. There was consensus that it would be beneficial, where possible, not to include the names of individuals in LeO's policies.

59. Following a previous discussion, the Chair recommended that the Information and Data Protection Policy should also be amended in the future to include any relevant updates resulting from the gap analysis being conducted in regard to the security of personal data.

60. The Chair also recommended that staff should provide evidence to confirm that they had read and understood all policies relevant to their contract.

61. The Committee was advised that, at the Chair's request, the Management Team would be taking over the review of policies previously assigned to ARAC.

62. The Committee **noted** the updates to the Information and Data Protection and Access to Information policies.

### Item 10 – Annual fraud report

63. The Head of Finance presented a paper providing an annual update on Fraud Risk. The paper set out an assessment of the organisation's overall position on fraud risk against Annex 4.7 of Managing Public Money, including updates for areas of development in 2019/20; the fraud risk register detailing the preventative and detective controls in place to mitigate them, and the relevant extract from the assurance map.

64. There were no incidents of fraud in 2018/19, although one member of staff resigned during an active investigation for timesheet falsification.

65. The overall risk of fraud remained low and no additional fraud risks had been identified since the presentation of the fraud risk register in April 2018.

66. The areas most vulnerable to fraud related to the falsification of flexitime and overtime records for personal gain and the outcome of complaints being manipulated for personal gain. Appropriate controls to mitigate these risks were in place.
67. A fraud policy statement is in place and an anti-fraud culture is promoted through behaviours and processes for identification and reporting of fraud.
68. Alison Wedge advised of the support available from the MoJ's Centre of Excellence in regard to dealing with fraud risk. The Chair reported that further support would be available from the Office of the Public Guardian. The Head of Finance stated that she would make contact with these organisations.
69. Chris Davis advised that other similar organisations referred to a 'Fraud, Bribery and Corruption' Risk Policy / Register and recommended that LeO adopted this practice.
70. Following review of the fraud risk register, the Chair made the following recommendations for improvement:
- Provide more clarity about what was being done in regard to the segregation of duties outlined in FR01 on the register.
  - Provide more information and clarity about the control processes in place to reduce fraud risks.
  - Include information about what is being done to detect and control the risk of identity fraud.

**ACTION: Head of Finance to update the fraud risk register to address the bullet points listed above.**

71. Committee **noted** the annual update on the Fraud Risk.

#### **Item 11 – Standing items**

72. The Head of Finance presented a paper setting out exception reporting as at period one of 2019.
73. There were no financial irregularities, controls or breaches reported.
74. Four single tenders were reported. The Head of Finance explained the rationale for them and reported that no further single tenders would be accepted in regard to the provision of mental health training; this would go to full procurement in the future.
75. Two attestations to the MoJ were reported in regard to room hire in March and April 2019.
76. The Committee **noted** the update on standing items.

#### **Item 12 – Any other business.**

77. The Chair reported that he would be reviewing the ARAC terms of reference.
78. There was no other business discussed.