

AUDIT AND RISK ASSURANCE COMMITTEE
("the Committee")
Draft MINUTES

Meeting held on 7 October 2020
10:30 – 13:30 | by video-conference

Present: (Members)	Catharine Seddon Catherine Brown Marina Gibbs Michael Smyth	Chair
In attendance:	Matthew Hill Tim Borthwick Stuart Hamill Steph North Holly Perry Melanie Stewart	Chief Executive and Accounting Officer Corporate Services Manager Head, Finance and IT Corporate Governance Manager (minutes) Director, Enabling Services Head, Finance and IT (outgoing)
	David Eagles Matthew Vosper Ella Firman Richard Evans Bri Luscombe	BDO LLP External Auditor BDO LLP External Auditor National Audit Office (NAO) External Auditor Crowe Internal Auditor Crowe Internal Auditor
Observing:	Rachael Goldwater Margie McCrone Paul Nezandonyi Jenny Prior David Winks	Corporate Affairs Associate (and item 13) Policy Manager Head, Communications and Engagement (and item 13) Corporate Services Manager (items 11-12) Ministry of Justice
Attendance for items:	Chris Nichols Gabrielle Stewart	Director, Regulation and Policy (item 8) Stakeholder Engagement Manager (item 13)

AUDIT AND RISK ASSURANCE COMMITTEE MEETING

Item 1 – Finance Committee

1. The Committee sat as a Finance Committee prior to the meeting to discuss the 2021/22 draft budget.

Item 2 - Private session with auditors

2. The Members met in a private session with the internal and external auditors.

Item 3 - Welcome and apologies

3. The Chair welcomed everyone present to the meeting. The Chair welcomed in particular the Head, Finance and IT to his first Committee meeting.

Item 3 - Declarations of interests relevant to the business of the Committee

4. No interests relevant to the business of the Committee were declared.

Item 4 - Minutes of the previous meeting

5. The minutes of the ARAC meeting held on 2 June 2020 were **APPROVED**.

Item 5 - Papers considered out of committee since 2 June meeting

6. The Committee **NOTED** that Paper (20) 17 (ARAC) - Effectiveness of the Audit and Risk Committee 2019/20 – was circulated on 18 June 2020.

Item 6 - Action tracker

7. The Committee reviewed and **NOTED** the action tracker, in particular that the issue of Board quorum was addressed in the governance manual review, to be considered later in this meeting.

Item 7 – NAO external audit update

8. NAO provided an oral update on the external audit for the 2019/20 reporting period. The following points were drawn to the Committee's attention:
 - The process for the final audit was satisfactory, with thanks to LSB colleagues for their support and flexibility
 - There had been an issue around fixed assets at the end of the reporting period due to the constraints of remote working and limited access to the LSB office for asset tagging. This work was expected to be complete by the end of 2020.
9. The Committee queried whether more should be done to formalise ARAC's involvement in the external audit. It was agreed that it would be helpful for the executive to consider how the Committee could be more involved in the early (first draft) stages of the governance statement (**action**). It was noted that accounting

standard IRFS16 would take effect in 2021, having been delayed by Covid-19. This would require additional audit time to ensure everything was in place ahead of its introduction. In terms of 'leftfield' requests or new requirements that might be imposed towards the end of the annual report and accounting period, it was acknowledged that it would never be possible to predict every eventuality, and that the best action was to be able to be agile in response to any late requests, as the LSB had been in 2019/20 in relation to a late request for a large-print version of the ARA to be made available to parliamentary members

10. The Committee **NOTED** the external audit update.

Item 8 - Crowe Internal Audit update

11. Crowe presented an overview of internal audit work which had progressed well despite the different working environment imposed by Covid-19. It would be helpful for the internal audit plan to continue to be refreshed frequently so that it reflected current priorities and resulted in dynamic audits.

12. The Committee thanked Crowe for their constructive engagement and high quality and clear recommendations. It was noted that while there was a tendency to flag more minor actions as well as the more strategic, this was in fact felt to be an inherent benefit of the internal audit function and contributed to providing overall assurance to the Accounting Officer.

Statutory decisions internal audit report

13. Crowe presented the audit report for statutory decisions, for which there was substantial assurance, one medium priority recommendation, five low priority recommendations and one advisory recommendation. On the lessons learned from an identified failure in controls (incorrect deadline date), Crowe were satisfied that actions identified to rectify the situation would go a long way to prevent a reoccurrence and management actions were considered sufficient. In addition, the Committee supported the recommendation to develop a formal written policy to cover correspondence provided in response to statutory decision applications.

Draft internal audit plan

14. The Committee considered the draft internal audit plan for 2021/22 and the following points were raised:

- Some projects had moved from previous plans, notably procurement and data management
- Statutory decisions and business planning were an extension of previous audits
- There was a question whether new areas might arise as a result of Covid-19 and remote working. Crowe were considering impacts on ways of working with other organisations, and would circulate lessons learned and a gap analysis once that process was complete (**action**). Activity in this area would likely replace a resource management audit, and would be wider than a systems audit
- Crowe were encouraged to maintain flexibility in the plan to reflect any shift in priorities.

15. The Committee **NOTED** the draft internal audit plan.

IT audit

16. Crowe provided an update on the IT audit, which was in progress. The LSB had completed its contribution to the audit however there was a delay in completing the audit work owing to delayed information being received from the third-party IT provider. The final audit report would be circulated out of committee ahead of the March 2021 meeting (**action**).

17. The Committee **NOTED** the internal audit update.

Item 9 – Oral update on counter fraud assurance

18. The Head, Finance and IT provided confirmation that no incidents of fraud had occurred since the last Committee meeting. Related to an item on the action tracker - *decision to renew cyber essentials certification due February 2021* – the recommendation to the Committee would be to adopt ‘essentials plus’ on the basis this would include vulnerability testing which would be valuable for the LSB.

19. The Director, Enabling Services, provided an oral update on the government counter fraud standard. The Ministry of Justice (MoJ) would undertake a light touch review of the LSB’s progress against the counter fraud functional standard before the end of 2020. The LSB’s business partner for fraud would keep the LSB updated on wider developments, particularly in regard to training. MoJ were developing an ‘insider threat’ training package which would be circulated to Committee members at the appropriate point (**action**).

20. The Committee **NOTED** the updates.

Item 10 – Update on value for money (VfM)

21. The Head, Finance and IT introduced the paper which set out progress made in relation to value for money developments at the LSB.

22. The Committee **CONSIDERED** the update, and raised the following points:

- It was important that colleagues understood why they were asked to input into forecasting and resource reporting tools. This work was one of several initiatives designed to improve the LSB’s VfM culture. A clearer picture was emerging of available resources and outputs
- Benchmarking was not necessarily the best way to ascertain VfM – it might be more valuable, for example, to consider exemplar organisations and what lessons could be learned
- VfM was intrinsically linked to productivity, and in turn, the alignment of people was essential, given human resources were the LSB’s biggest asset. Therefore the organisation’s ability to support its colleagues was imperative to secure VfM - this included considering staff engagement, skills development and other ways of supporting colleagues
- The Committee endorsed the direction of travel, with a recommendation for the executive to continue to take a proportionate approach to securing colleague buy-in.

23. The Committee **NOTED** the update, with thanks for the progress to date.

Item 11 – LSB Corporate Risk Register

24. The Corporate Services Manager introduced the Corporate Risk Register.

25. The Committee scrutinised the risks in turn and raised the following points in discussion:

- RO3 – Board quorum: it was noted that this risk had fallen away with the appointment of two new Board members from 1 August 2020. The Committee agreed that it was within the executive’s discretion to remove text on the register that was historic
- RO5 – poor Legal Ombudsman (LeO) performance leads to lost public confidence: it was posited that this risk was increasing. New LeO appointments to the roles of Chief Legal Ombudsman and Chief Operating Officer were crucial, and the LSB may seek to be involved in senior appointments and be closely involved in their onboarding process¹. The recent appointment of a new ARAC Chair was considered to mitigate the risk of weakness in OLC Board capability. There was a range of views as to the need to pursue radical solutions, but it was agreed that an alternative model would be developed alongside working closely with OLC colleagues to maximise the chance of success of the current model.
Action: Item to be added to the extraordinary meeting to take place in November 2020 ‘LSB discussions with Ministry of Justice on alternative models for ombudsman’
- R10A – impact on regulators of Covid-19: it was noted that many disciplinary appeals were frozen or postponed, and that some things would need to change to allow hearings to take place within the confines of the ‘new normal’ working arrangements. The Committee considered that the risk could be scored more highly, not least due to concerns around regulator responses to Legal Choices and timeliness in responding to data requests. The Committee also discussed that BTAS hearings had been conducted online, where consent had been provided, or postponed because of lockdown. There was some concern that lack of consent could be causing many cases to be postponed
- R10B – Covid-19 impacts on the market: it was questioned whether there might be increased bad practice or scams that were resulting in consumer detriment, and that LSB should monitor e.g. using consumer complaints data from LeO. Was there more the LSB could do to counter the risk of consumer detriment? The Covid-19 data hub narrative could usefully set out the import of such data.
- R11 – LSB not achieving traction with its policy objectives: it was questioned whether ‘traction’ was the right way to phrase this risk when, ultimately, the risk was that the LSB’s institutional legitimacy would be compromised if it did not achieve its policy objectives
- R12 – ensuring a diverse legal profession: the Committee suggested that the executive could consider making diversity a risk in its own right, separate from the risk of public confidence in regulation being undermined. There was a difference between diverse recruitment being viewed as a salve versus diverse retention and progression with related mitigations under the LSB’s oversight regulator capabilities. There was a role for the LSB to use its convening power,

¹ Post-meeting note: LeO executive appointments were announced on 15 October, so it was not possible to action the request in relation to involvement in the appointments process in time. The LSB’s locus with OLC appointments included holding OLC Board to account for its appointment decisions.

not least in respect of cultural issues around paying lip service to this important area, against organisations actually making progress.

26. The Committee **NOTED** the risk register.

27. The Committee **CONSIDERED** horizon scanning. It was agreed that the executive should give further thought to consumer detriment leading to access to justice issues. The Chair proposed the following six risks affecting legal services generally:

- Wholesale move to digital justice without necessary caveats or alternative provision;
- Further cuts to legal aid and the advice sector;
- The impact of extended court hours on diversity;
- The potential for the growth of the unregulated sector (this presented both risks and opportunities);
- The withdrawal of support (formal and informal) for public legal education;
- High level constitutional shortcomings (e.g. insufficient scrutiny by Parliament of legislation)

28. The Committee **NOTED** that this discussion would form the basis of a full Board session on 2 December on wider strategic risks, linked to the delivery of the new strategy.

Item 12 – Assurance mapping update

29. The Director, Enabling Services provided an oral update on assurance mapping that the assurance maps had been mapped against the operational and corporate risks.

30. The Committee **NOTED** the update, with a strong endorsement for the plan and welcoming the addition of gap analysis.

Item 13 – Communications and stakeholder engagement deep dive

31. The Head, Communications and Engagement introduced the deep dive, which considered the progress made by the executive to transform communications and engagement at the LSB in the context of this being identified as a corporate risk. The following points were drawn to the Committee's attention:

- The deep dive had presented a welcome opportunity to reflect on the progress of the communications and engagement team and of the organisation more widely
- The progress made over the last year reflected the executive managing the communications and engagement risk from an area of concern to an area within risk appetite
- The team were now considering how to build on that progress, including: improving documentation of processes, digital security, accessibility of the website, developing and maintaining website content, and developing metrics against which to monitor impact of activity
- Ongoing remote working provided an opportunity to maintain the high level of online stakeholder engagement built up during the Covid-19 pandemic
- It was noted that, taking into account comments from this discussion, the communications and engagement strategy would be presented to the full Board at its March 2021 meeting following a workshop in February 2021.

32. The Committee **REVIEWED** the deep dive, and the following points were raised in discussion:
- The executive were congratulated for advancing the LSB's external communications
 - The recent step change in stakeholder engagement was welcome, notwithstanding there was more to be done, in particular around harnessing the LSB's convening power
 - Key performance indicators (KPI) should be added for each strand of the strategy as a priority action, including a KPI which reflected the LSB's influence
 - Outreach with various diversity groups was welcome
 - It might be useful for the executive to speak with comparator organisations to explore how they use social media, and to explore tools to ascertain positive or negative engagement on social media
 - There was a question about whether the daily news round-up could include updates from other sectors (e.g. from healthcare and accountancy sectors). The communications and engagement team agreed to explore this and update to the Committee in due course (**action**)
 - In relation to the communications and engagement assurance map, it was agreed that documentation around stakeholder engagement would be formalised, and that further consideration would be given to consistency of briefings and quality control for meeting notes and routine feedback
 - It was agreed that the position of a Head, Communications and Engagement, who was also a member of the Senior Leadership Team, was a key appointment and one which contributed to high-quality decision making. Communications and engagement were essential to help the LSB perform its functions effectively, and the team should continue to have early sight of work across the organisation so communications and engagement could be factored into planning
 - There was a planned internal audit into communications. The team would use the assurance map as a basis for scoping that audit.
33. The Chair thanked the team for the deep dive, with a strong endorsement for progress made to date and with support for the KPIs and targets proposed. Further to points raised, the team should look to monitor progress over time, consider number of downloads from the LSB's website of consultations and other key documents, and look to comparator organisations who have wide stakeholder engagement e.g. Competition and Markets Authority for any lessons to be learned.
34. The Committee **NOTED** the deep dive, which represented a timely reminder of the revised approach to the dynamic risk management framework.

Item 14 – Governance Manual Review 2020

35. The Corporate Governance Manager introduced the paper, which following consultation with key stakeholders, proposed recommendations for revisions to the governance manual. The Committee was invited to suggest further revisions.
36. The Committee **CONSIDERED** the paper and the following points were raised in discussion:
- The proposed change to the quorum of the Remuneration and Nominations Committee from two to three members was incompatible with the separate

requirement in the Legal Services Act for a lay majority – quorum would therefore remain as three members

- Inconsistent terminology referring to ‘video conferencing’, ‘virtual’ and ‘online’ meetings would be standardised throughout
- The whistleblowing policy would refer to the ‘subject’ rather than the ‘accused’, include examples of possible offences, and would not include reference to ‘culture and values’
- The public interest disclosure policy would be updated to say the Senior Independent Director should be contacted in the event that neither the Chief Executive nor the Chair were immediately available
- The proposed removal of the Board’s involvement in defence of legal proceedings was questioned. The Committee requested that the executive consider this point further, and set out the arguments in favour of the change to Committee members out of committee **(action)**²
- More time should be given to this item on the 2021 agenda **(action)**.

37. The Committee **NOTED** the governance manual review, which, subject to clarification of points raised, would be circulated to the full Board for approval.

38. In addition, the Committee **NOTED** that, following the IT transformation the former LSB Archive had been deleted, with content now transferred to SharePoint.

Item 15 – Update on LSB’s publication scheme

39. The Corporate Governance Manager introduced the paper, which provided an update on actions since the last meeting and set out four proposals to amend the publication scheme (“the scheme”):

- Clarify within the scheme that from time to time the executive would draw specific correspondence to the attention of Board. The main mechanism for this was the CEO Report. Criteria would be established for this, and the scheme would set out the expectation that such correspondence would be part of the published Board papers. Third parties affected would be notified in advance
- Harmonise the new policy with s167-8 Legal Services Act – and be clear in general terms what kind of information might be classed as "restricted information"
- Add a general commitment within the scheme to publish stakeholder event notes, where appropriate
- Add a commitment to publish OLC assurance correspondence under the scheme.

40. The Committee **CONSIDERED** and **NOTED** the update on the publication scheme, and **AGREED** to the implementation of the proposed actions.

Item 16 – Forward look

41. The Committee **NOTED** the agenda forward look. It was noted that deep dive topics remained open to suggestion and change.

Item 17 - AOB

² Following correspondence out of committee and further review by the executive, this suggested change will not be implemented.

- 42. The Chair thanked the outgoing Head, Finance and IT for her outstanding contribution to the work of the LSB, particularly the stewardship of the LSB finances, including the introduction of a budget holder's charter. Her last day at the LSB would be 9 October 2020.
- 43. The Committee agreed in principle to hold a fourth meeting in addition to the three scheduled meetings throughout the year, as and when required.
- 44. There was no other business and the meeting ended.

SN, 14 October 2020

Signed as an accurate record of the meeting

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Date

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