Meeting: LSB Board

Date: 22 March 2022

Item: Paper (22) 15

Title: ARAC Annual Report 2021/22

Authors / Presenter/ Introduced by: Ethan Fleming, Corporate Governance Manager

Status: Official

Introduction: Purpose of the paper

1. The Terms of Reference (ToR) for the ARAC provide that:
2. *'The Chair of the Committee will produce and present to the Board on an annual basis a report summarising the activities of the Committee and the outcomes of its work. This report will be presented to the meeting of the Board that is scheduled to consider and agree the LSB's Annual Report and Accounts for the preceding financial year'*
3. This paper covers a draft report (at **Annex A**) for the period 1 April 2021 to 31 March 2022. This report will inform the LSB's *Annual Report and Accounts 2021/22*.
4. The report concludes that the Committee's activities during 2021/22 provide sufficient assurance to the Board that there were effective arrangements in place to provide assurance on risk management, governance and internal control.
5. The current ToR are attached at **Annex B**. (Last reviewed as part of the 2021 Governance Manual Review – agreed 30 November 2021).

Recommendation

6. The Board is invited to **agree** the draft report at **Annex A**.

Annex A Draft ARAC annual report 2021/22

Overview of the Committee and its ToR

7. The principal responsibilities of the ARAC are to review and to offer its views about such matters as may be referred to it by the Board or the Accounting Officer, or such other relevant matters as the Committee may determine, in accordance with its agreed ToR.

8. The Corporate governance in central government departments: code of good practice[1] requires Boards to ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. In this respect, Boards are required to be advised independently by an Audit Committee and an internal audit service.

9. The principal responsibilities of the Committee are set out in agreed ToR, which are published on the LSB's website. These responsibilities include, as appropriate, receiving and considering reports from both independent internal and external auditors, respectively Crowe LLP (the Internal Auditor) and the National Audit Office (NAO – the External Auditor).

Membership and attendees

10. The Chair and other members of the Committee are appointed by the Board, in accordance with the Legal Services Act 2007 and the Committee's ToR. The quorum for a meeting of the Committee is three members.

11. The Members of the Committee in 2021/22 were:
    - Catharine Seddon (Chair) (Lay)
    - Gary Kildare (Lay)
    - Catherine Brown (Lay)
    - Michael Smyth (non-Lay)

12. Representatives from Crowe LLP and NAO were represented, as appropriate, at meetings of the Committee. Regular attendees also included:
    - Matthew Hill (Board Member, Chief Executive and Accounting Officer)
    - Holly Perry (Director, Enabling Services)
    - Danielle Viall (General Counsel)
    - Stuart Hamill (Head, Finance and IT)

13. The Secretary to the Committee was the Corporate Governance Manager. Other LSB colleagues attended as necessary, for example colleagues have attended to facilitate deep dives on areas of risk Other SLT members have also attended to observe meetings.

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609903/PU2077_code_of_practice_2017.pdf

Observance of Terms of Reference

14. The ToR require the Committee to meet at least three times a year. During 2021/22, the Committee met four times, on the following dates:
    - 1 June 2021
    - 28 September 2021
    - 5 November 2021 (a meeting scheduled to consider the draft budget)
    - 8 March 2022
15. A register of attendance at meetings is attached (**Annex C**).
16. In accordance with its ToR, the Committee monitors its own effectiveness in discharging its functions.
17. The Committee operated in a manner considered to be compliant with its ToR and was quorate for all meetings.
18. The Committee confirms to the Board that the ToR attached at **Annex B** remain current and that no changes are necessary at this time.

Main activities

19. The Committee's regular activities in 2021/22 included:
    - sitting as a Finance Committee to scrutinise the LSB budget;
    - review and scrutiny of the LSB's Annual Report and Accounts 2020/21;
    - review and scrutiny of the activities of the External Auditor;
    - review and scrutiny of the activities of the Internal Auditor;
    - review and scrutiny of risk management and controls, including the annual review of the LSB Risk Management Statement;
    - Providing early input into the annual Governance Statement;
    - review and scrutiny of the LSB Governance Manual; and
    - oversight of the Committee's business programme, ToR and its effectiveness/performance.
20. Specific activities and matters considered in 2021/22 included:
    - a review of resource data against payroll data;
    - an annual report on LSB's data management obligations;
    - an annual review of FoI requests received by the LSB in 2020/21; and
    - deep dives in relation to OLC risk and project management.
21. Members also met in private sessions with the Internal and External auditors, at each meeting.

Audit services

22. Internal and external audit services were provided, respectively, by Crowe LLP and NAO.
23. The NAO used an external audit firm, BDO LLP to undertake the detailed work to support the C&AG's opinion for the 2020/21 audit, presented to the June 2021 meeting. The NAO has contractual arrangements and safeguards in place to

ensure that framework partners are independent, competent and objective. Owing to auditor rotation, NAO have appointed Deloitte to undertake the work from the 2021/22 audit onwards.

24. The Auditors were represented, as appropriate, at all meetings of the Committee.[2]

Internal Audit

25. The Committee noted the *Internal Audit Planning Report*, covering the relevant period, at its meeting on 8 March 2022.

26. The internal audit work programme covered:
    - a review of the LSB's business planning process (substantial assurance);
    - a review of communications (substantial assurance);
    - a review of procurement arrangements (substantial assurance), and
    - a review of payroll arrangements (XX assurance)

27. The Committee concluded that the Executive has responded positively to audit findings and has taken, or is in the process of taking, action to implement agreed recommendations from all Internal Audit reports. Progress against internal audit actions are tracked and reported on at each meeting.

External Audit

28. The Committee noted the contents of the NAO's Audit Completion Report for the previous year 2020/21 at its meeting on 1 June 2021, at which it was reported that:
    - the audit work had been completed and an unqualified audit opinion, without modification, would be given by the Comptroller and Auditor General (C&AG).
    - there were no concerns in relation to fraud risk.

29. The Committee is due to receive and consider the NAO's Audit Completion Report 2021/22 at its meeting on 6 June 2022.

30. A final version of the LSB's Annual Report and Accounts 2021/22 is to be considered by the Committee at its meeting on 6 June 2022. The Report will then be laid before Parliament before the summer recess, with the Board approving the Report, out of Committee, following any further amendments as a result of final scrutiny by the Committee.

Assurance processes

31. The Chief Executive meets members of the Senior Leadership Team individually at a frequency appropriate for each member. SLT members hold similar meetings

[2] With the exception of the November 2021 meeting where the agenda did not require them to attend

with their reports and ensure that controls are in place on an ongoing basis. The SLT meets informally daily and formally monthly to approve policies, review exceptions, identify and act on lessons learned, to review the corporate risk register and undertakes a horizon-scan review every quarter. Reports from the risk horizon scanning meetings are routinely sent to the ARAC Chair.

32. The Committee considers that ongoing management review and communication, supported by the findings of audits and MoJ oversight, give sufficient evidence to provide the Accounting Officer with assurance that systems are sufficiently robust and that the exceptions are materially insignificant.

Committee terms of reference, performance and reporting

Terms of reference

33. The Committee's current ToR were agreed by the Board at their meeting on 30 November 2021, following a review as part of the scheduled annual review of the LSB's governance arrangements. Several changes were agreed:
    - To include the General Counsel as an attendee;
    - the 'Reporting to the Board' item was updated to clarify that the minutes of ARAC will be circulated to the Board following their approval;
    - the 'Reporting to the Board' item was updated to clarify when the meeting papers would be circulated to the Board and that Board Members have a standing invitation to attend ARAC meetings
    - the 'Annual review of remit and performance' was adjusted to reflect that the review of ARAC effectiveness would be undertaken every two years rather than annually.

Performance

34. The Committee assesses its own performance and effectiveness against good governance practice, as recommended by, amongst other things, the 'Audit and Risk Assurance Committee Handbook'[3] and 'The Audit Committee Self-Assessment Checklist'[4]

35. In 2021/22, a comprehensive review of the Committee's effectiveness was carried out, coordinated by the Corporate Governance Manager, incorporating feedback from the Committee and its regular attendees, including the Internal and External Auditors, and representatives of the Ministry of Justice. A subsequent action plan was agreed, with updates reported at each meeting via the ARAC action tracker.

36. The ARAC Chair has attended quarterly MoJ Arms-Length Body ARAC Chairs' meetings and reports regularly on highlights and/or new resources available to ARAC members.

Reporting

[3] Audit Committee Handbook' (HM Treasury, published May 2013, updated 4 April 2016).

[4] The Audit Committee Self-Assessment Checklist' (National Audit Office, 2nd edition January 2012).

37. Oral reports of all meetings of the Committee were presented to the subsequent meeting of the Board, presented by the Chair of the Committee, or a nominated deputy.

38. In addition, this written report about the activities of the Committee in 2021/22 will be presented to the Board at its 22 March 2022 meeting.

Forward look to 2022/23

39. The Committee will continue to operate in accordance with its agreed ToR and annual business programme (**Annex C**). A work programme for 2022/23 is attached at **Annex E.**

40. A new member of the Committee will be appointed following the end of Michael Smyths' final term as a Board member on 17 April 2022.

41. Finally, the Committee will continue with efforts to further improve its own performance.

Conclusion

42. The Committee concluded that its activities in 2021/22, including its regular challenge of the Executive and the Auditors, were sufficient to provide assurance to the Accounting Officer and Board that the LSB had effective arrangements in place in relation to risk management, governance and internal control.

Annex B

LEGAL SERVICES BOARD

Terms of Reference[i]

Audit and Risk Assurance Committee (ARAC)

Responsibilities

1) The Board has established an Audit and Risk Assurance Committee[ii] to review and to offer its views about such matters as may be referred to it by the Board or the Accounting Officer or such other relevant matters as the Committee may determine, in accordance with these Terms of Reference[iii].

2) These matters may include, but are not limited to:

- risk management, financial and other controls, and the Governance Statement;
- considering and scrutinising a draft of the annual budget of the LSB;
- the accounting policies, the accounts and the annual report of the LSB, including the process for reviewing the accounts prior to submission for audit, levels of error identified and management's letter of representation to the external auditor;
- proposals for tendering for internal audit services or for the purchase of non-audit services from contractors who provide audit services;
- the planned activity and results of both internal and external audit;
- the adequacy of management's response to issues identified by audit activity, including the external auditor's management letter;
- assurances offered by the Executive relating to the corporate governance requirements for the LSB;
- an annual review of Board Members' and senior colleagues' expenses;
- anti-fraud policies, whistle-blowing processes and arrangements for special investigations; and
- the outcomes of its periodic reviews of its own effectiveness and these terms of reference.

Authorities

3) The Committee is authorised by the Board to:

- investigate any activity or topic covered by these Terms of Reference;
- request any information it requires from the colleagues, all of whom are directed to co-operate with any request for such information;
- obtain at the expense of the LSB, external financial, legal or other independent professional advice or training, subject to budgets agreed by the Board; and
- appoint, remove and approve the terms and conditions of appointment of professional advisers to the Committee.

Membership

4) The Committee and its Chair will be appointed by the Board from amongst its ordinary, non-executive Members[iv] and the period of appointment to the Committee shall be agreed by the Chair of the Board.

5) A majority of the Committee's Members will be lay persons[v].

6) The Chair of the Board may not be a member of the Committee.

7) The Chair of the Committee may not also be the Chair of the Remuneration and Nomination Committee.

Access

8) The internal and external auditors will have free and confidential access to the Chair of the Committee.

Meetings

9) The Committee will meet at least three times a year.

10) The quorum for a meeting of the Committee will be three Members[vi], attending in person or by telephone or video-conferencing facility and decisions may be made or ratified following a suitable exchange of correspondence.

11) A lay majority is required for all decisions. Where a meeting is not quorate it will nevertheless go ahead, with decisions to be ratified via correspondence, at the next meeting of the Committee or the full Board as appropriate.

12) Where necessary, in order to make sure that Committee members are aware of the nuance of a particular debate, a resolution may be circulated to all Committee members after a meeting and a decision taken by email. A decision might be delayed to a subsequent meeting where there is any doubt as to the decision taken.

13) The Accounting Officer, Director, Enabling Services, Head, Finance and IT, General Counsel and normally not more than two representatives of each of the

internal and external auditors will attend meetings of the Committee. The Board Chair shall attend no more than one ARAC meeting in each year as an observer, thus strengthening the independence of the Committee. Board Members will have a standing invitation to attend meetings of the Committee, and will receive a full set of Committee papers prior to each meeting. Other colleagues will attend meetings at the invitation or direction of the Committee or the Accounting Officer.

14) The Committee will have the right to direct those attending a meeting to withdraw to facilitate the open and frank discussion of particular matters. The Committee may direct all colleagues to withdraw during private discussions with either or both the internal and external auditors.

15) A Board Member or the internal and external auditors may request the Chair of the Committee to convene an additional meeting of the Committee.

16) The Corporate Governance Manager, in the capacity of Board Secretary, will be secretary to the Committee. Draft minutes of each meeting will be circulated by the Corporate Governance Manager within five working days of each meeting.

Reporting to the Board

17) The minutes of the Committee will be circulated to the Board after the Committee has approved them.

18) The papers of each meeting will be circulated to the Board in advance of each Committee meeting and Board Members have a standing invitation to attend meetings in an observer capacity. The exception to this is the Chair of the Board which is dealt with elsewhere within these terms of reference.

19) The Chair of the Committee will present a written or oral report about each meeting of the Committee to the next appropriate meeting of the Board.

20) The Chair of the Committee will produce and present to the Board on an annual basis a report summarising the activities of the Committee and the outcomes of its work. This report will be presented to the meeting of the Board that is scheduled to consider and agree the LSB's Annual Report and Accounts for the preceding financial year. A draft of the ARAC annual report will be circulated to the Internal and External Auditors for comment.

Annual review of remit and performance

21) The Committee will assess its effectiveness on a two-yearly basis, and will also review these Terms of Reference annually. It will submit recommendations for any proposed changes to the Board for approval. The Committee's duties and activities shall be disclosed in the LSB's Annual Report and Accounts.

Annex C

AUDIT AND RISK ASSURANCE COMMITTEE ANNUAL CYCLE OF AGENDA ITEMS			
Standing items	**May**	**Oct**	**Mar**
Approval of previous minutes	√	√	√
Matters arising and outstanding action points	√	√	√
Oral update on fraud assurance	√	√	√
Any other business	√	√	√
Agenda items			
Corporate risk register	√	√	√
Budget proposal for the next financial year		√	
Budget update for the next financial year			√
LSB annual report and accounts for the previous financial year - draft	√		
LSB annual report and accounts for the current financial year - update			√
LSB annual report on expenses for the previous financial year	√		
Internal audit report for the previous financial year	√		
Internal audit plan for the current financial year		√	
Internal audit update			√
NAO external audit report: completion report for the previous financial year and management letter	√		
NAO external audit update: lessons learnt from the previous years' audit and changes to guidance and issues that may affect the LSB for the current financial year audit		√	
NAO external audit planning report for current financial year			√
LSB Governance Manual annual review		√	
LSB risk management strategy annual review		√	
Assurance mapping		√	
ARAC annual report - draft	√		
Review of the effectiveness of ARAC			√

ANNEX D

Register of attendance at meetings of the Committee

1=Present
0=Apologies submitted

ARAC Member	Role	1 June 2021	28 September 2021	5 November 2021	8 March 2022
Catharine Seddon	Chair of ARAC	1	1	1	1
Catherine Brown		1	1	1	1
Gary Kildare		1	1	1	1
Michael Smyth		1	0	1	1
ARAC Attendees					
Matthew Hill	Chief Executive	1	1	1	1
Danielle Viall	General Counsel	0	0	1	1
Stuart Hamill	Head, Finance and IT	1	1	1	1
Holly Perry	Director, Enabling Services	1	1	1	1
NAO	External auditor	1	1	N/A	1
Crowe LLP	Internal auditor	1	1	N/A	1
BDO (LLP) UK	NAO framework partner BDO LLP	1	N/A	N/A	N/A
Deloitte (LLP)	NAO framework partner Deloitte LLP	N/A	N/A	N/A	1

Audit and Risk Assurance Committee
Work Programme 2022/23

Meeting Date	**June 2022**	**October 2022**	**March 2023**
Finance	Finance Report *[Inc. bringing to ARAC's attention changes to policies and guidance]* **Review prior to Board** **[SH]**	Finance Report *[Inc. bringing to ARAC's attention changes to policies and guidance]* **Review prior to Board** **[SH]**	Finance Report *[Inc. bringing to ARAC's attention changes to policies and guidance]* Finance Regulations review **Review prior to Board** **[SH]**
Performance	Performance Reports, Management Review and Assurance	Performance Reports, Management Review and Assurance	Performance Reports, Management Review and Assurance
Annual Report and Accounts	Annual Report and Accounts ***[informal report to the board]*** **ARAC: to scrutinise before AO signs** **[SH/HP]**	Lessons learned from 2021/22 audit and changes to guidance and issues that may affect the LSB for 2022/23 **[SH]**	Annual Report and Accounts Project Plan and Early Drafts of Annual Report for 2022/23 **Review prior to Board** **[SH/HP]**
Business Planning | Budget Setting		Draft Indicative Budget proposal with supporting information for 2023/24 **Review** **[CEO/SH]**	Budget for 2023/24 **Review, Endorse and Recommend to the Board** **[SH]**
Internal audit	Internal Audit	Internal Audit Plan for 2023/24 financial year	Internal Audit Draft Head of Internal Audit Opinion

Meeting Date	June 2022	October 2022	March 2023
	Annual Report and opinion for 2021/22 Reports issued **[Internal Auditor]** Internal Auditor's Effectiveness and Internal Audit Charter and Performance of Internal Auditor **Review** **[SH]**	Reports issued **ARAC: provide advice to AO** **[CEO/SH]**	Reports issued **Review** **[Internal Auditor]**
External Auditor	External Audit Completion report for 2021/22 financial year and management letter ***[Formal requirement]*** **[External Auditor]**	Lessons learned from audit of ARA 2021/22 Forward look at possible reporting changes for next financial year **[SH/HP]**	External Audit Audit Planning Report **Review** **[External Auditor]**
Risk *[Executive own risk register; ARAC review; Board 6 monthly review June & Nov]*	Corporate Risk Register to include new and emerging risks **Review prior to Board** **[EF/HP]** Risk Management Strategy **Review, Endorse and Recommend to the Board** **[EF/HP]**	Corporate Risk Register to include new and emerging risks **Review prior to Board** **[EF/HP]**	Corporate Risk Register to include new and emerging risks **Review** **[EF/HP]**
Governance	ARAC's Effectiveness | Terms of Reference	Governance Manual	ARAC's Effectiveness Annual Review

Meeting Date	June 2022	October 2022	March 2023
	Review **[EF/HP]** Annual Review of Corporate Policy as it relates to Board, OLC, Consumer Panel & SLT Expenses **Review** **[SH]**	*[captures majority of LSB corporate policies]* **Review, Endorse and Recommend to the Board** **[EF/HP]** Corporate Policy *Publication Scheme* **Review**	Draft of ARAC's Report for inclusion in Annual Report **Review, Endorse and Recommend to Board** **Agree updated framework** **[EF/HP]** Report on internal check of data management policy adherence **[EF]**
Risk Deep dive	N/a	Communications Deep Dive Update **[PN]**	**TBC**

* General items of business will be presented on a case-by-case basis, subject to the directions of the Committee, the programme agreed with the internal auditor, and the capacity of the Executive.

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[i] *Ibid.*, Schedule 1, para. 21.
[ii] Legal Services Act 2007, Schedule 1, para. 20(1).
[iii] *Ibid.*, para. 21.
[iv] *Ibid.*, para. 20(3), restricts the membership of the Committee only to Board Members.
[v] *Ibid.*, para. 20(4).
[vi] *Ibid.*, para. 21(2).