Meeting: Legal Services Board

Date: 18 March 2021

Item: Paper (21) 14

Title: Annual Report of ARAC 2020/21

Authors / Introduced by:

Catharine Seddon, Chair of ARAC

Status: Official

Introduction: Purpose of the paper

1. This paper presents a draft report about the activities of the ARAC for the period 1 April 2020 to 31 March 2021 for consideration by the Board at its meeting on 18 March 2021. This report is intended to inform the LSB's *Annual Report and Accounts 2020/21* – in particular by supporting the annual governance statement – and represents governance best practice.

2. This draft report proposes that the Committee's activities during the year under report provide sufficient assurance to the Board that there were effective arrangements in place. As such, the report also reflects on the Committee's effectiveness. The Terms of Reference (**ToR**) for the ARAC provide that:

   '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. The current ToR are attached at **Annex A**. (Last reviewed as part of the 2020 Governance Manual Review – agreed 2 December 2020).

Recommendation

4. The Committee is invited to **agree** and **endorse** the draft report about the activities of the ARAC during 2020/21, for submission to the Board's 18 March 2021 meeting.

Overview of the Committee and its ToR

5. 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.

6. 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.
7. 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

8. 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, attending in person or by tele-con.
9. The Members of the Committee in 2020/21 were:
    - Catharine Seddon (Chair) (Lay)
    - Marina Gibbs (Lay)
    - Catherine Brown (Lay)
    - Michael Smyth (non-Lay)
10. The Internal Auditor 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)
    - Melanie Stewart (Head, Finance and IT until October 2020)
    - Stuart Hamill (Head, Finance and IT from October 2020)
11. The Secretary to the Committee was the Corporate Governance Manager. Other LSB colleagues attended as necessary, notably the Corporate Services Managers[2], who had particular responsibility for the overall risk management policy, ensuring risk owners regularly update and maintain the corporate risk register.

Compliance with Terms of Reference

12. The ToR require the Committee to meet at least three times a year. During 2020/21, the Committee met on the following dates:
    - 2 June 2020
    - 7 October 2020

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

[2] Corporate Services Manager role held by two colleagues during the year, including a period of parental cover.

- 20 November 2020 (extraordinary meeting)
- 3 March 2021

13. A register of attendance at meetings is attached (**Annex C**).
14. In accordance with its ToR, the Committee monitors its own effectiveness in discharging its functions.
15. The Committee operated in a manner considered to be compliant with its ToR, and was quorate for all meetings.
16. The Committee confirms to the Board that the ToR attached at **Annex A** remain current and that no changes are necessary at this time.

Main activities

17. The Committee's regular activities in 2020/21 included:
    - Sitting as a Finance Committee and scrutinising the LSB budget;
    - full scrutiny and review of the LSB's Annual Report and Accounts 2019/20;
    - review and scrutiny of the activities of the External Auditor;
    - review and scrutiny of the Internal Auditor's activities;
    - review and scrutiny of risk management and controls, including the annual review of the LSB Risk Management Statement;
    - review and scrutiny of the LSB Governance Manual; and
    - oversight of the Committee's business programme, ToR and its effectiveness/performance.
18. Specific activities and matters considered in 2020/21 included:
    - Oversight of value for money against the business plan;
    - a review of the LSB's publication scheme;
    - consideration of a tax liability arising from the historical treatment of Board Member expenses;
    - an annual report on LSB's data management obligations;
    - a review of FoI requests received by the LSB in 2019/20; and
    - deep dives in relation to LSB resource planning, stakeholder relations, and value for money.

19. Members also met in private sessions with the Internal and External auditors, as required.

Audit services

19. Internal and external audit services were provided, respectively, by Crowe LLP and NAO. During the year, the NAO used a *framework partner* BDO LLP to undertake the detailed work to support the C&AG's opinion. The NAO has contractual arrangements and safeguards in place to ensure that framework partners are independent, competent and objective.
20. The Auditors were represented, as appropriate, at all meetings of the Committee.

Internal Audit

21. The Committee noted the *Internal Audit Planning Report*, covering the relevant period, at its meeting on 3 March 2021.

22. The internal audit work programme covered:
    - A review of the design and operating effectiveness of LSB's statutory decision process;
    - a review of fraud risk in relation to remote working;
    - a review of IT controls, and
    - a review of regulatory performance

23. 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. Two recommendations are outstanding and plans are in place to resolve these by March 2022.

External Audit

24. The Committee noted the contents of the NAO's Audit Completion Report for the previous year 2018/19 at its meeting on 2 June 2020, 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.

25. The Committee is due to receive and consider the NAO's Audit Completion Report 2019/20 at its meeting on 1 June 2021.

26. A final version of the LSB's Annual Report and Accounts 2020/21 is to be considered by the Committee at its meeting on 1 June 2021. 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

27. The Chief Executive meets members of the Senior Leadership Team individually fortnightly to review the delivery of their responsibilities. SLT members hold similar meetings with their reports and ensure that controls are in place on an ongoing basis. The SLT meets 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 meetings are routinely sent to the ARAC Chair.

28. The Committee believes 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 the systems are sufficiently robust and that the exceptions are relatively insignificant.

Committee terms of reference, performance and reporting

Terms of reference

29. The Committee's current ToR were agreed by the Board at their meeting on 2 December 2020, as part of the scheduled annual review of the LSB's governance arrangements. Two changes were agreed: the 'Reporting to the Board' item was updated to include *A draft of the ARAC annual report will be circulated to the Internal and External Auditors for comment*, and 'Meetings' was updated to reflect that meetings may take place in person or by telephone or videoconferencing.

Performance

30. 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]
31. In 2020/21, a comprehensive review of the Committee's effectiveness was carried out, 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.
32. Since November 2020, the ARAC Chair has attended quarterly MoJ Arms-Length Body ARAC Chairs' meeting.
33. In July 2020, the Internal Auditors delivered cyber security training to Committee members, with a separate session run for executive colleagues.

Reporting

34. 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.
35. In addition, this written report about the activities of the Committee in 2020/21 will be presented to the Board at its 18 March 2021 meeting.

Forward look to 2021/22

[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).

36. The Committee will continue to operate in accordance with its agreed ToR and annual business programme (**at Annex B**). A work programme for 2021/22 is attached at **Annex D.**
37. A new member of the Committee will be appointed following the end of Marina Gibbs' final term as a Board member on 31 March 2021.
38. Finally, the Committee will continue with efforts to further improve its own performance.

Conclusion

39. The Committee concluded that its activities in 2020/21, 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.

Catharine Seddon, ARAC Chair on behalf of ARAC. 12.2.21

Annex A

LSB 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 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 and papers of each meeting of the Committee will be circulated to the Board.

18) 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.

19) 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

20) The Committee will assess its effectiveness, 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 B

AUDIT AND RISK ASSURANCE COMMITTEE ANNUAL CYCLE OF AGENDA ITEMS			
Standing items	**June**	**Oct**	**Mar**
Approval of previous minutes			

ANNEX C

Register of attendance at meetings of the Committee

1=Present
0=Apologies submitted

ARAC Member	Role	2 June 2020	7 October 2020	20 November 2020	3 March 2021
Catharine Seddon	Chair of ARAC	1	1	1	1
Catherine Brown		1	1	1	1
Marina Gibbs		1	1	1	1
Michael Smyth		1	1	1	1
ARAC Attendees					
Matthew Hill	Chief Executive	1	1	1	1
Melanie Stewart	Head, Finance and IT	1	1	N/A	N/A
Stuart Hamill	Head, Finance and IT	N/A	N/A	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	1	N/A	1

ANNEX D

Audit and Risk Assurance Committee
Work Programme 2021/22

Meeting Date	June 2021	October 2021	March 2022
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 polici* Finance Regulations review **Review prior to Board** **[SH]**
Performance	Performance Reports, Management Review and Assurance Business Plan Alignment Assurance **Review prior to Board** **[CEO]**	Performance Reports, Management Review and Assurance Business Plan Alignment Assurance **Review prior to Board** **[CEO]**	Performance Reports, Management Review an Business Plan Alignment Assuranc **Review prior to Board** **[CEO]**
Annual Report and Accounts	Annual Report and Accounts **ARAC: to scrutinise before AO signs** **[SH/HP]**	Lessons learned from 2020/21 audit and changes to guidance and issues that may affect the LSB for 2021/22 **[SH]**	Annual Report and Accounts Project Plan and Early Drafts of Annual Report **Review prior to Board** **[SH/HP]**
Business Planning | Budget Setting		Draft Indicative Budget proposal with supporting information for 2022/23 **Review**	Budget for 2022/23 **Review, Endorse and Recommend to th** **[SH]**

Meeting Date	June 2021	October 2021	March 2022
		[CEO/SH]	
Internal audit	Internal Audit Annual Report and opinion for 2020/21 Reports issued **[Internal Auditor]** Internal Auditor's Effectiveness and Internal Audit Charter and Performance of Internal Auditor **Review** **[SH]**	Internal Audit Plan for 2022/23 financial year Reports issued **ARAC: provide advice to AO** **[CEO/SH]**	Internal Audit Draft Head of Internal Audit Opinion Reports issued **Review** **[Internal Auditor]**
External Auditor	External Audit Completion report for 2020/21 financial year and management letter **[External Auditor]**	Lessons learned from audit of ARA 2020/21 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 May & Nov]*	Corporate Risk Register to include new and emerging risks **Review prior to Board** **[TB/HP]** Risk Management Strategy **Review, Endorse and Recommend to the Board** **[TB/HP]**	Corporate Risk Register to include new and emerging risks **Review prior to Board** **[TB/HP]**	Corporate Risk Register to include new and em **Review** **[TB/HP]**

Meeting Date	June 2021	October 2021	March 2022
Governance	ARAC's Effectiveness | Terms of Reference **Review** **[SN/HP]** Annual Review of Corporate Policy as it relates to Board, OLC, Consumer Panel & SLT Expenses **Review** **[SH]**	Governance Manual *[captures majority of LSB corporate policies]* **Review, Endorse and Recommend to the Board** **[SN/HP]** Corporate Policy *Publication Scheme* **Review**	ARAC's Effectiveness Annual Revie Draft of ARAC's Report for inclusion in Annu **Review, Endorse and Recommend to** **Agree updated framework** **[SN/HP]** Report on internal check of data management po **[SN]**
Risk Deep dive	Procurement **[SH]**	OLC follow-up **[SB/CW]**	Project Management **[HP]**

* 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.