

Board members present:

George Jenkins (Chairman)
Terence Jagger
David Johnston
Marta Phillips
Neil Swift
Matthew Rees

Others present:

Malcolm Botting
David Galpin
Simon McCullough (item 4)
David Pottruff (item 5)
Monika Kochanowska-Tym (item 6)
Akhlq Shah (item 8)
Colin Sharples (item 9)

1. Welcome, apologies, announcements and declarations of interest

- 1.1. The Chairman welcomed members to the 17th meeting of the Board.
- 1.2. Apologies had been received from Marcine Waterman.
- 1.3. The Chairman reported that the recruitment campaign for additional non-executive Board members had been successful, with two candidates appointed by the Minister for Defence Procurement. It was not considered appropriate to ask the new members, Mary Davies and Peter Freeman, to attend this meeting in view of their very recent appointments.
- 1.4. The Chairman thanked Neil Swift for undertaking the role of Interim Chief Executive and Interim Accounting Officer, and asked him to pass on to staff the Board's gratitude for the high quality of work since its last meeting. **Action:** Neil Swift.

<p>There were no declarations of interest.</p>

2. Minutes of 16th meeting of the Board and action tracker

- 2.1. The Chairman introduced the minutes of the Board meeting held on 26 June 2017. Five actions were recorded on the separate 'action tracker'. All had been completed or were in progress, and no other matters were arising.
- 2.2. The minutes of the 16th meeting of the Board were approved as a correct record.

3. Interim Chief Executive's Report to Board

- 3.1. Neil Swift, Interim Chief Executive, presented his report to the Board, which provided an update on items not included elsewhere on the agenda.
- 3.2. The Board had agreed to change the structure of the Executive Committee at its meeting on 21 March 2017. While the Interim Chief Executive wished to retain the structure and role approved by the Board, he had now agreed to refocus and reduce the contracted hours of the Executive Director, Defence Advisor from 0.6 FTE to 0.2 FTE, as anticipated by the March paper. The Board noted the change and, in discussion, considered the need for succession planning in the referrals area as a result. The Interim Chief Executive assured the Board that plans were in place to ensure that the necessary skill-set continued to be in place.
- 3.3. One staff member had resigned since the last Board meeting, and the executive was considering options for filling this role alongside the two remaining vacancies. The Interim Chief Executive noted that any amendment to individual roles would be aligned to the delivery of the Corporate Plan and the anticipated workplan. The Executive Committee had met to discuss the results of the staff survey and agree an action plan. As part of the agreed action plan, a staff group had been established to seek feedback from a cross-section of staff, which would report directly to the Executive Committee at regular intervals. The format of the regular staff Open Forum had also been revised to address feedback that it should be more interactive.
- 3.4. The SSRO had provided factual comments on the draft provisional audit findings of the NAO's study 'Improving value for money in non-competitive procurement on defence equipment'. The SSRO continued to engage with the NAO and, following Accounting Officer review, the final report was due for publication in October.
- 3.5. The Interim Chief Executive had earlier advised the Audit Committee of the ongoing risk resulting from the permanent Chief Executive continuing to be unwell. Arrangements were in place to mitigate this risk, including the appointment of an Interim Chief Executive and Accounting Officer, and the division of responsibilities falling to the Chief Operating Officer.

The Board:

- **noted the information provided in the report.**

4. Allowable Costs Guidance Consultation

- 4.1. Matthew Rees, Director of Regulation and Economics, introduced a report on the SSRO's statutory guidance on Allowable Costs, asking the Board to consider incremental changes to the guidance (the Single Source Cost Standards) for consultation.
- 4.2. The SSRO had engaged constructively with the MOD, industry and other stakeholders throughout the revision process to date. It had expressed its views in working papers, on which it had received 13 substantive written responses from a wide variety of stakeholders. The guidance would be put to public consultation between 2 October and 24 November, and through this the SSRO hoped to receive further insight to improve the guidance further. A stakeholder response document would be published alongside the consultation, setting out the input received to date.
- 4.3. The Board considered the areas of the guidance that had been reviewed, and the views expressed by stakeholders:
 - Entertainment – the Board agreed that the guidance should continue to state that entertainment expenses were not Allowable Costs, although there would be some minor changes to the wording.
 - Marketing, sales and bid costs – the guidance would seek to ensure that such costs were attributable to the contract, while removing the statement that they should be 'demonstrably linked', as this had the same effect. Contractors would be asked to provide evidence of the benefit of such costs to the MOD through maintaining or lowering overhead rates.
 - Reworks and faulty workmanship – the guidance would now acknowledge that some faulty workmanship may be Allowable, and there would be changes to language. It would state that agreement could be made between the contracting parties on reasonable levels of rework and faulty workmanship where this could be evidenced, with excess costs above these levels and faulty workmanship due to poor systems not being Allowable.
 - Balance sheet related issues - the guidance would state that Directors were responsible for valuing assets, with associated costs required to be evidenced and meet the AAR test. There would be a removal of the requirement for the Secretary of State to approve the re-valuation of assets.
 - Accounting issues – the guidance would clarify that the SSRO does not prescribe systems and methodologies to be used; this was to be agreed between the MOD and the contractor. There was no need to define terms as this was covered in GAAP/IFRS.
 - Stakeholders had identified a number of other priority areas for subsequent review in their responses to the working papers. These included the treatment of sunk costs, research and development, intellectual property and stock

losses/obsolescence. These topics were likely to form the work programme for updates in future years.

- 4.4. Subject to consultation responses, the final guidance would be published in February 2018 and would apply from 1 April 2018. This timing would complement the timetable for updating the SSRO's guidance on adjustments to the baseline profit rate.
- 4.5. In discussion, the Board agreed the proposed changes to the guidance and noted that the SSRO should seek a similar level of interactive discussion with MOD and industry on all guidance. It noted that there would be a final legal review of the guidance before it was published.

The Board:

- **approved the recommended key changes to statutory guidance;**
- **noted the summary of stakeholder responses to working papers for publication;**
- **approved the proposed revised guidance as a consultation draft, subject to any final minor changes; and**
- **delegated authority to the Chairman, after consultation with the Chief Executive, to sign off the final consultation documents.**

5. Cost risk and incentives in QDCs: discussion paper

- 5.1. Matthew Rees, Director of Regulation and Economics, introduced the draft discussion paper on cost risk and incentives in Qualifying Defence Contracts. The discussion paper presented findings from work undertaken by the SSRO between March and September 2017, in response to issues raised by stakeholders. It summarised the evidence currently available to the SSRO and sought further evidence by promoting a discussion agenda about the topics considered most relevant to stakeholders' proposals for legislative change. It also set out the SSRO's initial thoughts on changes to its guidance related to risk and incentives.
- 5.2. The discussion paper would be circulated to stakeholders in October. Following consideration of stakeholder responses, the SSRO would send a final version of the paper to the Secretary of State in mid-November to inform the review of the Single Source Procurement Framework. The findings would also inform the SSRO's reviews of its statutory guidance on Allowable Costs, adjustments to the baseline profit rate and contract reporting.
- 5.3. The Board discussed the report structure and each section of the report in turn. It considered the changes the MOD and contractors thought should be made in relation to risk and incentives; how risk was commonly defined, the types of risk affecting QDCs and how risk affects prices and profits; how choice of pricing

method and contractor performance affect contract profits and the potential impact of changes to the cost risk adjustment; and how contract profit rates address risk and incentives. The Board also considered how the SSRO's guidance might be developed, and where improvements in the reporting for QDCs might be useful.

- 5.4. Board members commented that the paper offered a good deal of valuable insight, and discussed the evidence base that informed the work. The Board was comfortable with the positioning of the paper and the conclusions it derived from the evidence available, and agreed to delegate authority for clearance to the Chairman, after consultation with the Chief Executive.

The Board:

- **considered the draft discussion paper and delegated authority to the Chairman, after consultation with the Chief Executive, to:**
 - **approve a final draft of the paper for dissemination to the SSRO senior stakeholder forum and Operational Working Group by 27 September 2017; and**
 - **approve a final version of the paper, taking account of further evidence from stakeholders, and send this to the Secretary of State;**
- **endorsed the stance taken given the information available at this time; and**
- **noted the risks arising from the work, and from the MOD's proposals for change to the Regulations, and the actions proposed to manage these.**

6. Review of legislation - update

- 6.1. David Galpin, Head of Legal Services, introduced a report that updated the Board on the review of the legislation. On 15 June, the SSRO had submitted its recommendations to the Secretary of State regarding changes to the Defence Reform Act 2014 and the Single Source Contract Regulations 2014. The MOD was now progressing the Secretary of State's review of the legislation and was engaging with the SSRO and industry to inform its approach. The Secretary of State was due to complete the review in December 2017.
- 6.2. The report informed the Board of progress to date, and set out the SSRO recommendations that were likely to be supported by the MOD and those that were not. The Board discussed the progress made on these recommendations, and agreed the SSRO's response to issues arising in the course of the Secretary of State's review. It agreed that the SSRO should respond constructively and in a manner consistent with the principles set out in its recommendations document. The Board also agreed that the SSRO would make no further representations in respect of the recommendation relating to the introduction of a funding levy. The Chairman would discuss the review in his forthcoming meeting with the Minister.

- 6.3. The Board discussed the MOD's proposals for change, which the SSRO had considered in its recommendations document and had provided officer-level feedback on at workshops in July and August. The Board agreed that in the absence of further evidence the SSRO should respond in a manner consistent with its recommendations document.
- 6.4. The Board discussed ADS' proposed amendments to the legislation, and agreed that the SSRO's response to these proposals would be as set out in Appendix 5 of the paper.
- 6.5. The Board considered the timetable for future legislation. The Secretary of State's review might produce amending Regulations that would be published in December 2017, in accordance with the negative procedure set out in section 42 of the Act. Changes to primary legislation were also likely to be recommended, but it was unclear when these would be subject to the parliamentary process.
- 6.6. The Board authorised the Chairman to agree any matters of detail that did not differ substantially from the agreed approach. If a further discussion with Board members was required, a telephone conference call would be arranged. **Action:** David Galpin.

The Board:

- **agreed that, in the absence of further evidence, the SSRO should respond to MOD proposals for change in a manner consistent with the recommendations document;**
- **agreed the responses to the ADS proposals set out in Appendix 5; and**
- **authorised the Chairman to agree any matters of detail that did not differ substantially from the approaches agreed in (a) and (b).**

7. DefCARS procurement strategy

- 7.1. Matthew Rees, Director of Regulation and Economics, introduced a report providing the Board with details of the procurement strategy for the Defence Contracts Analysis and Reporting System (DefCARS) contract. The existing contract with Synectics Solutions Ltd was due to expire on 31 July 2018, and a new contract to host the existing system, provide support and include some scope for development was proposed. The contract specification would be developed throughout the autumn, in consultation with the MOD.
- 7.2. The recommended procurement approach was the Official Journal of the European Union (OJEU) process. The SSRO planned to go out to tender in January 2018 and evaluate bids from suppliers between March and April 2018. The Board would be notified of the preferred supplier in May 2018 and would be asked to approve the expenditure for the contract, with a view to awarding the contract in the same month.

- 7.3. The Board approved the approach and was content that the contract would be awarded for at least three years, a longer timescale than previously. The executive was asked to ensure enough time for onboarding at the end of the timetable. **Action:** Matthew Rees.

The Board:

- **agreed the next DefCARS contract should be for three years, with an option to extend for another year, to support and maintain the existing system and provide some additional development;**
- **agreed the procurement approach; and**
- **agreed the high level procurement timetable.**

8. Compliance approach

- 8.1. Neil Swift, Interim Chief Executive, introduced a report summarising the emerging findings from the SSRO's initial assessment of whether improvements could be made to the application of the SSRO's compliance methodology.
- 8.2. The Board had previously noted that there was merit in reviewing the approach to compliance to determine whether changes would improve either the outcomes or the efficiency and effectiveness of the process. The principles emerging from the initial review were that the SSRO's approach to compliance should: increase efficiency through automatic validation where possible; improve effectiveness by greater reliance on verification by the MOD against the contract; consider spot checks by the SSRO of verification; and focus on thematic analysis and reports to support the SSRO's reviews of guidance and legislation. Improvements in data quality were required, and the new approach was likely to have a positive impact.
- 8.3. The SSRO had engaged constructively with the MOD on the proposals to date, and would now seek to establish a pilot of the new approach with the MOD, to understand what verification and other procedures would be undertaken by the project teams. The Board considered the approach and the risks, including the risk of self-review, which could be partly mitigated by spot checks. The Board approved the approach and the plan to engage stakeholders in a more detailed review.

The Board:

- **agreed the principles for reviewing the current approach to the compliance methodology; and**
- **noted that it was proposed to update the Board on progress in line with the timetable in Appendix 1.**

9. Developing the Corporate Plan

- 9.1. Neil Swift, Interim Chief Executive, introduced a report updating the Board on plans to develop the Corporate Plan for 2018-21
- 9.2. The first years of the SSRO's operations were characterised by work to establish a new regulatory regime and to put in place the necessary guidance, methodologies and systems. It was now timely and appropriate to review and set out a framework and timetable for the delivery of the SSRO's statutory functions in a more strategic context. The updated approach would allow the SSRO to signal more effectively to stakeholders how it would identify, prioritise, plan and deliver its work having sought and considered their views with clear mechanisms and timetables for engagement. The SSRO would work with its stakeholders to listen, prioritise and engage, and would focus on producing more incremental outputs in future.
- 9.3. In recent discussions it had been agreed with the MOD that the SSRO would align its approach to producing the Corporate Plan with that set out in the Treasury's *Managing Public Money*. The SSRO would therefore submit annually to the MOD a draft of its Corporate Plan by 31 March. It would also agree with the MOD the issues to be addressed in the plan and the timetable for its preparation.
- 9.4. The MOD had requested an initial budget estimate for 2018/19 to 2020/21 by the beginning of October to align with its own planning cycle. The Board considered an indicative budget that rolled forward known contractual and other commitments (full year effect of staff increases this year) but did not at this stage incorporate growth proposals. The Board approved the budget, but asked for it to be noted in the accompanying letter to the MOD that any increase to workload was likely to result in increased costs. A business case template would be developed for such in-year requests to be made. **Action:** Neil Swift.

The Board:

- **approved the updated approach to developing the Corporate Plan set out in the paper;**
- **noted that work would now commence to develop the Plan, with engagement from stakeholders;**
- **approved the indicative budget to be submitted to the MOD, alongside a schedule of the assumptions and risks that supported the proposed resources and a proposal to manage and accommodated further growth or development requirements through in year business cases to the SSAT; and**
- **approved the timetable leading to the publication of the Corporate Plan.**

10. Corporate Performance Report

10.1. Neil Swift, Interim Chief Executive, introduced the report, which provided an update to the Board on how the organisation was delivering against its corporate priorities as set out in the Corporate Plan.

10.2. The Executive Committee was intending to review the KPIs, to provide a clearer indication of progress against all objectives. **Action:** Neil Swift.

The Board:

- reviewed and commented on the Corporate Performance Report.

11. Procurement update on Microsoft Enterprise Agreement

11.1. Neil Swift, Interim Chief Executive, introduced a report recommending a procurement approach for Microsoft licenses and cloud services for use by the SSRO. The initial three-year agreement entered in November 2014 was due to end on 31 December 2017, and a new contract would be procured in the Autumn to ensure continuation of services. The Board agreed to proceed on the basis of the approach set out in the paper.

The Board:

- approved the procurement approach detailed in this paper for a Microsoft Enterprise Agreement providing licenses and cloud services in use at the SSRO for three years from 1 January 2018; and
- authorised the Chairman to approve the contract award after consultation with the Chief Executive.

12. Update from the Audit Committee meeting on 18 September 2017

12.1. Marta Phillips provided an update to the Board on the 18 September 2017 meeting of the Audit Committee. The Committee had undertaken a thorough review of the corporate risk register at the meeting. It had also discussed a report from internal audit on data quality in the SSRO.

12.2. The minutes of the Audit Committee meeting would be presented to the next meeting of the Board.

The Board:

- noted the presentation

13. Minutes from the Regulatory Review Committee meeting on 17 July 2017

13.1. The Chairman introduced the minutes of the Regulatory Review Committee's meeting on 17 July 2017, and the Board considered the matters raised.

The Board is invited to:

- **note the minutes.**

14. Future Board agendas

14.1. The draft agendas for Board and sub-committee meetings until December 2017 were presented to the Board.

The Board:

- a) **Commented on the draft agendas.**

15. Any Other Business

15.1. The Board noted that the SSRO needed to be mindful of the implications of the General Data Protection Regulation, which would apply from 25 May 2018. Plans were in place to ensure that the SSRO was prepared for forthcoming changes to requirements regarding employee records and personal data.

16. Date of the next meeting

16.1. The next meeting of the Board would take place on **11 December 2017 at 2:00pm.**