

Minutes of the 122nd Meeting of the Office for Legal Complaints (OLC)

Thursday 15 September 2022 13:45 – 16:30

<p>Present: Elisabeth Davies, Chair Lis Bellamy Annette Lovell Hari Punchihewa Alison Sansome Dale Simon Martin Spencer Jane Martin</p> <p>Board Secretary Kay Kershaw</p>	<p>In attendance: Paul McFadden, Chief Ombudsman Steve Pearson, Head of Complex Casework and Deputy Chief Ombudsman Michael Letters, Head of Finance Laura Stroppolo, Head of Head of Programme Management and Assurance Debra Wright, Head of Head of People Strategy and Services (items 1 – 5) David Peckham, Head of Operations, Business Information and Business Transformation Deb McIntyre, Operations Manager (item 5) Treena Moseley, Operations Manager (item 5) Mark Persard, Operations Manager (item 5) Luke Hutcheson, Business Intelligence Manager (items 5 and 8) Sarah Gilbert, Policy Officer (items 6 & 7) Steph Godbold, Stakeholder and External Engagement Manager (items 6 and 7) Blessing Simango, Finance Manager (items 6 & 7)</p>
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Preliminary issues:

The Board met during a period of national mourning following the death of Her Majesty Queen Elisabeth the Second.

The OLC's Annual Board Risk Workshop had preceded the September Board meeting. Board members had reviewed and considered the OLC's risk appetite and tolerances and how they would read across to the new performance reporting dashboard and RAG ratings.

The Board meeting was quorate.

Item 1 – Welcome, apologies, and declarations of interest

1. The Chair welcomed attendees to the meeting.
2. There were no declarations of interest reported.
3. There were no apologies.

Item 2 – Previous Minutes

4. The minutes of the OLC Board meeting held on 30 June 2022 were **approved** for accuracy and **approved** for publication.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 30 June 2022.

Item 3 - Actions from previous meetings and matters arising

5. The Board ratified a unanimous decision made out of committee in July to approve the Welsh Language Report.
6. A paper providing updates on previous actions was circulated to the Board ahead of the meeting. The following key points were made:
7. Action 4 Paragraph 17 from the June 2022 Board meeting: A paper providing an update on the Hub Strategy, including the emerging lessons learned from the Cardiff Hub and further detail on the rationale for the Hub Strategy had been issued to the Board on 14 September 2022, completing this action.
8. Action 2 Paragraph 47 from the April 2022 Board meeting: Following discussion, the Deputy Chief Ombudsman (DCO) **agreed** to circulate examples of Ombudsman Decision letters out of Committee ahead of the October Board meeting for discussion as part of the Q2 Quality reporting agenda item at the October Board meeting.

Action: The Deputy Chief Ombudsman to circulate examples of Ombudsman decision letters ahead of the October Board meeting.

Action: The Board Secretary to update the Board forward plan to reflect that a discussion on Ombudsman Decision letters would take place as part of Q2 Quality reporting at the October Board meeting.

9. The Board **noted** the update on previous actions.

Item 4 – Executive Report

10. The Chief Ombudsman (CO) drew the Board’s attention to the stability of performance, the significant increase in overall output and advised that recruitment for Investigator, Team Leader and Level 1 Ombudsman roles had closed early following receipt of over 2000 applications.
11. The Board questioned the impact of the Hub Strategy on longer-term Strategic planning, particularly considering the remaining time left on the Birmingham office lease, the security of tenure for the Cardiff and potentially the Leeds Hubs and the impact of improved performance and staffing levels. In response, the Executive reported that:
 - LeO’s long-term strategy on Hubs had yet to be determined fully but it was clear that this was a strategy that needed to be pursued to remain aligned with other organisations and ensure that the Executive was in a position to consider a full range of options as the end of the Birmingham lease approached. The long -term strategy would evolve taking into account the approach to the Birmingham office lease, the impact of the Hub Strategy, including the implications of managing and engaging staff

and the variance of attrition and performance across multiple sites, and the trends in the labour market.

- A project had been set up to plan for managing the Birmingham office lease and LeO's requirements moving forward.
- The Cardiff hub had been secured through MoJ Estates on a low risk, low-committal basis. The Potential Leeds hub would be secured in the same way. A Memorandum of Terms of Occupation (MOTO) had been drafted for the Cardiff hub; this was being reviewed by the Legal Manager to ensure security of tenure in line with the OLC/LeO's long term Strategy.
- The Executive would continue to provide regular updates to the Board on the Hub Strategy.

12. In response to a question raised, the CO explained that information reported in the press about recent recruitment for the Leeds Hub may have conflated information reported in the 2021/22 Annual Report and Accounts about some of the national recruits being based in the Leeds area.

13. The Board questioned the levels of staff engagement following a recent Internal Communications survey. The CO explained that despite the response rate being low, the levels of engagement and the feedback received had provided helpful insight and consideration was being given to any actions or changes in approach to be taken in response to the survey. The Internal Communications Manager was considering alternative ways of engaging with staff to increase future survey response rates.

14. It was **agreed** that further information on the survey and any follow up actions would be shared with the Board either as part of a pre-board session with the Internal Communications Manager in attendance or as part of a formal Board agenda item.

Action: The Internal Communications Manager to share further information on the survey and any follow up actions with the Board.

Action: The Board Secretary to update the Board forward plan to include a discussion on the Internal Communications survey and follow up actions as part of a pre-Board session or a formal agenda item at a future Board meeting.

15. In response to points made in discussion about the importance of regular communications on the Scheme Rules Changes with key stakeholders, including the Legal Sector, the Board was advised that an external and internal communications plan was being developed. It was **agreed** that the Board would be kept updated on the Scheme Rules Changes communications plan.

Action: The Deputy Chief Ombudsman to keep the Board updated on the external and Internal communications plan for the Scheme Rules Changes.

16. The Board **noted** the Executive report.

Item 5 - Quarter One Reporting

Finance

17. The Board **noted** the mitigating actions outlined in the Q2 Finance Report and the Executive Report that had been put in place during quarters 1 and 2 place to address a small emerging underspend and **noted** the small end of year overspend that was currently being forecasted.

18. The CO updated the Board on the steps being taken to ensure the active monitoring of the budget to mitigate the risk of an end of year under/overspend, which included the close monitoring of attrition to ensure the alignment of mitigating recruitment activity and regular detailed reporting to ARAC and the Board to ensure that the Board is sighted early on any under/overspend.
19. Considering the underspend in capital expenditure in 2021/22, the ARAC Chair was keen to ensure that capital funds were fully utilised in 2022/23. The Board was advised that capital funds were allocated by the MoJ and were not requested by the OLC/LeO based on any planned expenditure. Plans were currently in place to spend approximately £200k of the £250k allocation.
20. The Executive would consider using the remainder of the allocation of capital funds but since the Birmingham office lease is due to expire in 2024 did not want to spend excessively on office capital projects. The ARAC Chair urged the Executive to consider ways of fully utilising the allocation of capital spend. The Head of Finance advised that additional capital expenditure affects future budget requirements through increased depreciation requirements.
21. The Board **noted** the Q2 Finance Report.

Performance

22. Reflecting on the success of the FET initiative, the Board sought to understand its impact on the mix of case complexities, productivity and staff morale in Business as Usual (BAU). The following points were made:
 - Performance trajectories for 2023/24, based on emerging data that doesn't take into account any Scheme Rules changes and focused solely on new business, indicates that FET would deal with 286 cases monthly and productivity in BAU would range between 4.5 and 5.1 cases per investigator.
 - BAU investigators continued to work on a mix of low and medium complexity cases, but, because of the FET initiative, now dealt with fewer 5.7 challenges, early agreed outcomes and early withdrawals.
 - Recognising that BAU investigations took longer to complete and the impact of this on staff morale, Operations Managers were looking at ways to better support BAU investigators as they adjust to the changing mix of cases and time taken to complete an investigation.
 - Recognising the increase in medium complexity cases in the pipeline for investigation, a Medium Complexity Case pilot had been set up. The pilot aimed to improve the process and timeliness of investigations for medium complexity cases. Investigators working on the pilot were receiving training to increase their knowledge and confidence of areas of law and complaint handling; early feedback from customers and service providers was positive.
23. Considering the changing mix of case complexities and the performance of the FET, the Board sought to understand whether the forecast trajectories for the remainder of 2022/23 and for 2023/24 would need to be reviewed and updated. In response, the Board was advised that trajectories for 2022/23 were being reviewed to reflect the performance of the FET and the trajectories for 2023/24 were being considered by the Performance and Quality Task and Finish Group.

24. In response to a question about re-allocated cases, the Board was advised that the number of case re-allocations had increased because of moving resource to the FET. All cases were re-allocated as quickly as possible and regular communications were issued to update customers. Re-allocated cases were limited to 25% of an investigator's case holding due to the amount of re-work and challenges often associated such cases. The re-allocation process was kept under regular review.
25. The Board was keen to understand the levels of customer satisfaction amongst customers receiving a service from FET, noting that a report on this had recently been commissioned by LeO, and stressing the need to be regularly sighted on FET Customer Satisfaction data.
26. The Executive advised that limited FET Customer Satisfaction data was available at this stage given the time required to commission this in line with our regular wider Customer Satisfaction surveys. The next Customer Satisfaction survey would collect data on this. Anecdotal feedback from customers who had had cases resolved quickly by FET had been positive, but there was some dissatisfaction amongst customers who had had cases dismissed early because they had wanted a full investigation. More help was to be provided to customers to ensure that they better understood the FET process and the Scheme Rules.
27. It was **agreed** that the Board would receive regular updates on FET customer satisfaction as part of LeO's quarterly reporting on Quality and Service and that time would be scheduled into the Board forward plan to discuss the feedback on the recently commissioned report on FET customer satisfaction.
- ACTION: The DCO to ensure that updates on FET customer satisfaction are provided to the Board when available as part of quarterly reporting on Quality.**
28. **ACTION: The Board Secretary to schedule time into the Board forward plan for the Board to consider and discuss the feedback on the report commissioned by LeO on FET customer satisfaction.**
29. The Board **noted** the Q2 Performance Report.

People

30. The Board had met with the CO and Head of People Strategy and Services in a private session prior to the Board meeting.
31. In response to questions raised about the levels of sickness absence and attrition in Q1, the Head of People Strategy and Services made the following key points:
- Overall attrition had peaked in April 2022. Since then, attrition rates had reduced. The Executive was closely monitoring this trend.
 - Levels of sickness absence, particularly long-term sickness absence, had reduced significantly in Q2 due to the intervention of an External Consultant.
 - A suite of new HR policies, including a new Absence Management Policy was rolled out in July. It was anticipated that, as the new Absence Management Policy becomes embedded across the organisation, a more rigorous management of sickness absence would be seen.
32. The RemCo Chair reported that discussions at the November RemCo meeting would focus on the prioritisation of the People Strategy, which was key to addressing the issues around sickness and attrition.

33. The Board **noted** the Q2 People Report.

Items 6 and 7 – Strategy Update and 2023/24 Budget and Business Plan

34. The OLC Chair proposed that agenda items 6 and 7 were discussed as conjoined items.
35. The Board views were sought on the proposed Strategic Objectives and Business Plan Priorities for 2023/24, which had been developed in line with previous Board discussions on the Strategic Framework for the year ahead, and the approach and format of the 2023/24 Budget and Business Plan Consultation.
36. The Board confirmed that the proposed Strategic Objectives and Business Plan Priorities for 2023/24 and the format and approach to the 2023/24 Budget and Business Plan Consultation were heading in the right direction and made the following suggestions for further improvements:
- Clarify that reference to ‘customers’ in the Consultation document includes both complainants and legal service providers.
 - Refine and clarify Strategic Objectives 1 and 2.
 - Refine and clarify Business Plan Priorities 1 and 2.
 - Consider reflecting the language and wording used by the new Government in the Consultation document.
 - Consider articulating what LeO’s service would be like post backlog in the Consultation document.
 - Include a mix of closed and open questions in the Consultation document.
 - Consider updating LeO’s logo at some point in the future.
37. In discussion, it was noted that, prior to approving the final Consultation document and starting the process of engaging with stakeholders, Board members would need to be able to answer questions on what difference the changes being made to the Strategic Objectives and Business Plan Priorities for 2023/24 would make to complainants and legal service providers.
38. Alternative channels for consultation feedback were being considered to maximise stakeholder feedback and help to better understand Stakeholders’ views on the 2023/24 Budget and Business Plan; this would include more engagement with CEOs, Consumer and Stakeholder Groups.
39. The Executive **noted** the Board’s feedback on the proposed Strategic Objectives and Business Plan Priorities and the format and approach to the 2023/24 Budget and Business Plan Consultation, which would be taken into consideration when preparing the final 2023/24 Budget and Business Plan consultation document to be presented for approval at the October Board meeting.
40. The CO advised the Board that the 2023/24 Budget would not be a routine budget as it would need to take account of the volatility and ongoing impact of inflation and the cost-of-living crisis.

41. The Executive had sought to minimise budget increases and additional budgetary requests as much as possible, but this would be challenging considering the budgetary implications of the Scheme Rules Changes and pressures of Quality and Service and the associated resourcing risks.
42. A significant part of this budget would be an inflationary pay award. Three potential inflationary pay award options were being considered by the Executive following early informal engagement with the LSB's Finance Team. The CO stressed that these options were being considered in the absence of any Government pay remit guidance, which would not be available until after the OLC's 2023/24 Budget had been agreed.
43. Recognising the significance of this within this budget round, the Executive sought a view from the Board on the proposed inflationary pay award options, the approach to formally discussing the budgetary options with the LSB, and on different options for targeting a potential pay award.
44. In response, Board members made the following suggestions and comments for the Executive to consider further:
- Consider targeting the pay award to staff who are critical in delivering Business Plan objectives.
 - Consider a loyalty payment for staff.
 - Consider a non-consolidated percentage increase or lump sum payment for one year only being made to staff.
 - Consider targeting a different percentage pay increase to staff on different salary levels if this approach was considered aligned to LeO's values.
 - Consider utilising capital funds to make efficiencies by doing things differently through process and systems changes.
 - An 8% pay award and a 10% non-pay inflation increase were reasonable.
 - There was support for presenting a range of inflationary pay awards options and for engaging the MoJ and LSB in discussions on this as much as possible.
 - Public Sector pay issues may limited LeO's options on an inflationary pay award.
 - Board members were keen to ensure that staff were treated as fairly and that LeO / OLC did their best they could for them regarding an inflationary pay award.
 - Like other ALBs, LeO / OLC may have to accept a degree of staff turnover considering the current employment market and LeO's offering; it would therefore be important to ensure that recruitment and staff training was as good as it could be.
45. The CO thanked Board members for their comments and their steer on the approach to progressing the 2023/24 Budget, advising that the 2023/24 Budgetary process was most likely to be an iterative one due to the challenging circumstances being faced.
46. The Board **noted** the papers on the 2023/24 Strategic Objectives, Business Plan and Budget and the key milestones associated with the 2023/24 Budget and Business Planning process.

Item 8 – Performance Reporting

47. Further to extensive discussions with Board members on the new Performance Reporting Dashboard and demonstrations on the functionality of Power BI, the OLC Chair asked Board members to confirm whether they were content with the four categories included in the Top-Level Performance Dashboard which would form the basis of exception reporting to the Board in the future.
48. Feedback was provided on the number of indicators included in the People category and the grouping of indicators relating to Customer Experience. In response, the Board was advised that there was scope to add, remove and change the order of the indicators in each of the four categories and that a RemCo Dashboard would be developed to report in more detail of People.
49. In response to a point made, the Board was advised that a subset of information on critical risk indicators would be developed and included in the Performance Dashboard.
50. It was suggested that Customer Journey Time (CJT) for all complexities including FET was moved from the Customer Experience category to the value for Money category to replace the three individual CJT tabs and to reduce repetition.
51. Following discussion, the Board **approved** the four categories in the Top-Level Performance Dashboard, subject to minor changes, recognising that there was flexibility to add, remove or move indicators around as required in the future.
52. The Board **approved** the new performance reporting dashboard

Item 9 - Board Paper Redactions and Non-Disclosure report

53. The Board reviewed a paper setting out the redactions and items for non-disclosure proposed in respect of the September Board papers.
54. The Board **approved** the items identified for redaction and non-disclosure.

ACTION: The Board Secretary to publish the September Board papers in line with the Board's approval of the redactions and items for non-disclosure.

Item 10 – Board Effectiveness

55. In line with the Board's commitment to improving Board effectiveness, Dale Simon reflected on the Board meeting; the following key points were made:
 - The best paper was on the developing Business Plan, Interim Strategy and Consultation paper which was as clear and well written.
 - The best discussion had taken place on Q2 performance, where LeO colleagues had demonstrated a good depth of knowledge and understanding which had provided the Board with greater confidence.
 - In the future, it would be helpful to set the context at the start of Board workshops to ensure that those in attendance understand what was being asked for them and to get the most out of the session.

Item 11 –Any other Business

56. There was no other business.