

Minutes of the 121st Meeting of the Office for Legal Complaints (OLC)

Thursday 30 June 2022 14:15 – 16:40

<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 Sandra Strinati, Chief Operating Officer 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 Steph Godbold, Stakeholder and External Engagement Manager (item 5)</p> <p>Apologies Debra Wright, Head of Head of People Strategy and Services</p>
---	--

Preliminary issues:

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. Apologies were noted.

Item 2 – Previous Minutes

4. The minutes of the OLC Board meeting held on 26 May 2022 were **approved** for accuracy and **approved** for publication,

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 26 May 2022.

Item 3 - Actions from previous meetings

5. Action 3 Paragraph 33 from the May 2022 Board meeting: The Board was advised that an update on the autonomy pilot would be provided at the September Board meeting and not in June as stated in the previous actions paper. The Board's forward plan had been updated to reflect this. This action was to remain open.
6. Action 5 Paragraph 49 from the May 2022 Board meeting: The DCO confirmed that as part of the work on stage 2 of the Scheme Rules changes, consideration would be given to ombudsman delegations and the viability of using different role titles as an alternative to seeking legislative changes to extend the ombudsman's decision-making powers. Considering this, the Board **agreed** that this action should be closed.
7. Action 16 Paragraph 97 from the March 2022 Board meeting: Having received an out of committee update on LeO's involvement with Stonewall on 29 June, the Board **agreed** that this action should be closed.
8. The Board **noted** the update on previous actions.

Item 4 – Executive Report

9. The Chief Operating Officer (COO) updated the Board on June's emerging performance. The following key points were made:
 - Verified performance figures for June would not be available until July. Case closures were expected to be between 756 and 760 against a Business Plan target of 825.
 - Case closures were expected to be within 100 of the Business Plan target at the end of quarter one. 41% more cases were expected to have been closed at the end of quarter one with 46% less established Investigator resource compared to the same period in 2021/22.
 - The Pre-Assessment Pool (PAP) was expected to have reduced for the fourth consecutive month, with approximately 5219 cases in the PAP against a Business Plan target of 5568.
 - Twenty-five percent of BAU established Investigators were not performing in line with expectations. Performance management support was being provided in line with HR policy.
 - The performance of the Front-End Team (FET) was significantly above expectations.
10. The Board had been pleased to note the performance improvement across quarter one, particularly building on the sustained improvement in quarter four and when compared to the same period in 2021/22. Recognising that this improvement had in large part been due to business process changes rather than increased staff productivity, the Board had been keen to understand the action being taken to improve staff productivity further, particularly for those BAU established Investigators who were not currently performing at the expected levels. In response, the COO made the following key points:
 - LeO had two leadership challenges: To support the BAU under-performing established Investigators to improve their productivity, and to support the non-established Investigators, who were less than 12 months in role, to ramp up their productivity throughout their first year to become established. Seventy-five percent of the overall Investigator cohort was non-established.

- Some Investigators, with differing levels of productivity, had been moved to FET and therefore managed through a smaller team at the front-end of the business process. As a result of the different nature of the work involved, and the support provided, the productivity of those established Investigators who had previously been underperforming had increased.
- The productivity of some individual established Investigators was excellent and was continuing to increase.
- Lower levels of productivity amongst some established BAU Investigators were entrenched. Support was being provided to help those performing at lower levels to move to the mid performance range, and to help those mid-range performers move to the top range. If this could be achieved, the overall impact on productivity and performance would be significant and LeO would not have the BAU challenges currently experienced. Some Investigators may find this shift in performance difficult to achieve.

11. Recognising that the Board would be focussing on quarterly performance throughout 2022/23 rather than on variable monthly performance, the Board asked whether the non-established Investigators were currently making the expected progress, and what confidence the Board should have on where performance would be at the end of quarters two and three, by which time the newer non-established Investigators would have become more established. In response, the COO explained that:

- LeO had clear expectations of what each new Investigator should be achieving month on month; this included the number of cases they should be investigating and the number of outcomes they should be achieving.
- New Investigators were managed against these expectations throughout their probationary period.
- LeO's performance trajectories took into account the month on month ramp up of case holdings and outcomes that new Investigators were expected to achieve.
- Taking into consideration the overall performance of new Investigators; that their productivity was expected to increase month on month; that attrition had stabilised, and that LeO had over recruited Investigators at the start of the year, the COO reported that she, and the Operations Managers, were confident that LeO would achieve or be close to its performance trajectories as we move through the remainder of the year.

12. In response to a question raised, the COO **agreed** to clarify and report back to the Board the percentage of new Investigators that achieved the expected productivity ramp up during their first 12 months in role before they became established.

ACTION: The COO to arrange for the Board to be informed of the percentage of new Investigators that achieved the expected productivity ramp up during their first 12 months in role before they became established.

13. The Chief Ombudsman (CO) reported that the Hub Strategy was progressing well and at pace. The Board was advised that competitor organisations based in Birmingham were also now adopting similar hub and national recruitment strategies to aid their own, similar recruitment challenges.

14. Some members of the Board sought clarity on the Hub Strategy. Considering that the Executive was exploring other potential hub locations, the Board sought to understand whether the hub pilot had now moved into operational strategy and whether a full evaluation of the pilot had been undertaken. In response, the CO made the following key points:
- A paper had been circulated ahead of May’s Board meeting setting out the rationale for the Hub strategy and the progress that was being made. This built on previous discussions with the Board.
 - Proof of concept work had progressed at the Cardiff Hub. This location had been chosen because low cost, low risk office space had been offered within existing MoJ estate and because the quality of staff recruited to work there was expected to be high with the jobs on offer likely to be attractive and of high value in the Cardiff labour market. LeO had successfully recruited for all but two of the Cardiff based roles and had received a very positive response to recruitment on operational roles.
 - The National Recruitment and Hub Strategies were interlinked and national recruitment roll out had been dependent on pursuing this. Without these, LeO would still be under resourced and unable to deliver on its Business Plan. LeO’s priority over the last year, and the clear ask of stakeholders, had been to move with pace and urgency in identifying solutions to this long-standing challenge which was critical to the improvement of LeO’s performance.
 - Considering the recruitment challenges within the West Midlands, and that other competitor organisations were also now already adopting similar regional recruitment and Hub Strategies, the Executive had felt it critical to proceed with the strategy and to continue to explore other hub locations; without doing so, LeO could potentially be limiting its ability to recruit within a hub’s catchment area.
 - A hub in Leeds, based in MoJ estate on a low cost, low risk basis, was now being considered. A number of LeO employed staff recruited through the National Recruitment Strategy were based in or around Leeds. A hub in this area would provide them with an office base within a commutable distance from their homes; this would enable them to work in line with the hybrid working policy in place for Birmingham and Cardiff based staff.
 - No final decisions had been made on the Leeds hub and no recruitment had taken place. However, this was a high priority.
 - Lessons learned from the Hub Strategy and particularly the Cardiff pilot would be captured in line with the programme and project management architecture in place, this included lessons learned on the office set up, Health and Safety, recruitment, performance and the management and leadership visibility.
15. In response to feedback from Board members, the CO **confirmed** that lessons learned on the Hub Strategy and the Cardiff Hub Pilot would be assessed and would be fed into progress and development of the wider Hubs Strategy including the Leeds Hub and **agreed** to ensure that regular updates on the Hub Strategy, including lessons learned, were provided to the Board.
16. The CO clarified that the National Recruitment Strategy and the Hub Strategy were two separate, but interdependent strategies, with the Hub Strategy underpinning the National Recruitment Strategy and explained the rationale for the pace and urgency to progress the Hub Strategy to enable as many employees as possible to work in line with LeO’s hybrid working policy.

17. Following a detailed discussion, the OLC Chair **confirmed** the Board's support for the direction of travel on the Hub Strategy and **confirmed** the Board's support and understanding for the pace and urgency needed. The OLC Chair added that alongside this, there needed to be greater transparency for the Board on the success criteria; what constituted success of the Hub strategy and the thinking behind it. The CO was asked to consider the best ways of providing this information to the Board.

ACTION: The Chief Ombudsman to ensure that the lessons learned on the Hub Strategy were assessed and fed into progress and development of the wider Hub Strategy including the Leeds Hub; to ensure that regular updates on the Hub Strategy were provided to the Board, and to consider the best way of providing the Board with this information.

18. The Board had been pleased to note that the Internal Audit of Budget and Business Planning had received a substantial rating which indicated the considerable progress LeO had made.

19. The OLC Chair asked how worried the Board should be about the emerging underspend on staff costs. In response, the ARAC Chair reported on discussions that had taken place at the June ARAC meeting about this, drawing the Board's attention to the following points:

- The 2022/23 Budget had been planned with the knowledge that there had been delays in recruitment during 2021/22; lead times on recruitment had therefore been built into the 2022/23 Budget.
- Some of the year-to-date staffing underspend related to an unexpectedly high number of staff on maternity leave; this could not be planned for.
- ARAC had sought clarity on whether the underspend would accumulate as a saving throughout the year, or whether it would be fully utilised, ensuring that the Business Plan would be delivered. The Executive had confirmed that it intended to fully utilise the underspend during the year with plans in place for further operational recruitment in quarter three.

20. Following on from the points made by the ARAC Chair, the Head of Finance added that:

- Discussions at the June ARAC had focussed primarily on the operational staffing underspend. In addition to the higher-than-expected number of staff on maternity leave, the underspend had also been driven by a higher-than expected Investigator attrition at the end of Q4 / beginning of Q1.
- Considering this known attrition, mitigating action had been taken to over-recruit Investigators in Q4, and additional mitigating action had taken place in Q1 when the number of Investigators recruited to work from the Cardiff hub had been increased from 7 to 13.
- This, in addition to staff returning from maternity leave and the recruitment planned in quarter three should ensure that the staffing budget for Investigators would be fully spent by the end of the year.
- The vacancy factor in the 2022/23 Budget had been increased to reflect corporate vacancies. There had been further corporate attrition during quarter one. Considering the challenges around corporate recruitment, the Executive had scheduled a meeting to review its corporate recruitment plans and what mitigating action would be taken to address the associated underspend.

- Compared to 2021/22, when the year started with an under resourced Investigator cohort and the Business Plan was to grow the Investigator cohort by 20% whilst simultaneously dealing with attrition, 2022/23 has begun with an over-resourced investigator cohort to mitigate any early investigator attrition; the year-to-date underspend on staffing costs was therefore not the result of the same issues experienced in 2021/22.

21. Recognising the commitment made by the Executive at previous meetings, the Board was reassured by the pro-active management and monitoring of the 2022/23 Budget that was in place and how the Board would have early sight of any developments related to an under / overspend or any other budgetary issues.

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

Item 5 Annual Report and Accounts 2021/22 sign off

23. The Stakeholder and External Engagement Manager updated the Board on the changes that had been made to the 2021/22 Annual Report and Accounts since the Board had last had sight of the document. The following key points were made:

- The content of the report had been pared down and as much duplicated information had been removed as possible.
- The graphics had been refined to reflect minor changes that had been made to the narrative.
- Page furniture had been inserted and approved by the MoJ.
- Title pages were now consistently formatted and minor amendments had been made to typographical errors.
- Information had been added on pay ratios and pay quartiles in line with recommendations made by the Auditors.
- Page numbers would be added to the final document once the Board had approved it.

24. The ARAC Chair reported on discussions about the 2021/22 Accounts that had taken place with Auditors at the June ARAC meeting. The following points were made:

- Auditors had assured ARAC that the 2021/22 Accounts had been prepared in compliance with regulations and they presented an accurate financial picture.
- Auditors had identified two non-adjusted misstatements; these were not material in value. One related to a change in the way the operating lease was disclosed under the new IFRS16 reporting standard, the other related to fixed assets of zero value that were no longer in use but included on the asset register. A cleansing exercise of asset register was being undertaken to remove these items and an adjustment was being made to disposals.
- Auditors had confirmed that the audit of 2021/22 Financial Statements was almost completed. Some minor points relating to disclosures were due to be finalised on 30 June; once this was completed, the work on accounts production would be closed.
- ARAC had scrutinised the Audit Certificate, Letter of Representation and the Management Letter that had been issued by the Auditors.

- The Audit Certificate was a standard document and raised no concerns for ARAC.
 - The Letter of Representation required ARAC to disclose any known areas of irregularity, such a fraud. ARAC had not been aware of any areas of irregularity.
 - There were no serious issues highlighted in Management Letter and the points raised had been minor.
 - ARAC had been satisfied with the reports provided by the Auditors and the Executive. Considering this, the ARAC Chair **confirmed** that the Committee would be happy to provide the Board with the assurance it required to be able to approve and sign off the 2021/22 Accounts.
- 25.** Board members provided feedback on quality control and brevity to be taken into consideration when producing future Annual Report and Accounts.
- 26.** Overall Board members felt that the format of the Annual Report and Accounts, the narrative and graphics were all easy to follow, readable and accessible and thanked all involved for their hard work in producing the document.
- 27.** Recognising that there would still be some final, minor adjustments to be made to 2021/22 Annual Report and Accounts before they were finalised, such as the inclusion of page numbers, the OLC Chair sought the Board's conditional approval of the 2021/22 Annual Report and Accounts.
- 28.** Board members unanimously gave **conditional approval** for the 2021/22 Annual Report and Accounts, subject to the final minor adjustments.
- 29.** The CO reported on the communications plan for the Annual Report and Accounts and related key messages. The following key points were made:
- Communications would be launched with a Chair's blog, a press release and letters to key stakeholders the day after the Annual Report and Accounts are laid.
 - Key messages would include: The range and extent of change across all areas of the Legal Ombudsman that had taken place in a condensed period at pace and with urgency; the increase in performance output; process changes; improvements to the customer journey and unit cost, and the radical approach underpinning all the improvements.
 - Follow up interviews with trade press would be arranged.
 - Social media presence would be increased with a series of activity prepared and planned for the weeks following launch.
- 30.** Having completed the minor drafting amendments, a final copy of the 2021/22 Annual Report and Accounts would be sent the Auditors for final checking. On 1 July, the CO's signature would be added to the document which would then be forwarded to the National Audit Office for the Comptroller and Auditor General to review and sign off. Once signed off, the Annual Report and Accounts would be sent to the printers on 6 July. The 2021/22 Annual Report and Accounts were expected to be laid in Parliament on 14 July 2022.
- 31.** The MoJ had already approved the 2021/22 Annual Report and Accounts.
- 32.** A copy of the 2021/22 Annual Report and Accounts would be forwarded to the LSB for discussion at the LSB Board meeting in July.

33. On behalf of the Board, the OLC Chair thanked all involved in the production of the 2021/22 Annual Report and Accounts.

Item 6 – 2023/24 Budget and Business Plan: Programme Plan

34. The Head of Programme Management and Assurance (HoPM&A) reported on the 2023/24 Budget and Business Plan Programme Plan. The following key points were made:

- A copy of the Budget and Business Planning Audit report would be circulated to the Board. The recommendations arising from this audit were now being actioned.
- On 6 July, the HoPM&A and HoF would be meeting with the ARAC Chair to discuss and agree the budget setting principles, and to consider, in line with a recommendation from the Budget and Business Planning audit, how best to factor ARAC's role into Budget and Business Planning process in a way that ensured its balance and independence was maintained.
- On 12 July, the HoPM&A and Business Intelligence Manager would be meeting with the Chair of the Performance and Quality Task and Finish Group (P&Q Group) to understand the role of the P&Q Group in the Budget and Business Planning process and the budget setting assurance process.
- The first monthly Executive finance review meeting had taken place; this additional meeting would ensure further rigour in the Budget monitoring process.

35. The Board had been pleased with the substantial audit rating following the audit of Budget and Business planning and the firm platform it provided for the 2023/24 Budget and Business Planning process.

36. The OLC Chair reported that one of the recommendations from the audit had been to review the Tripartite Protocol. This would be progressed with the LSB and MoJ accordingly.

37. The Board supported a proposal for a meeting to be scheduled with the LSB in mid-September with a view to seeking the LSB's feedback on the OLC's emerging proposals for the 2023/24 budget.

38. Recognising that the learning from the 2022/23 Budget and Business Plan process would be applied to the process followed in 2023/24, the Board **noted** the 2023/24 Budget and Business Plan programme plan.

Item 7 Strategy Timing

39. The OLC's current Strategy for the Legal Ombudsman Scheme runs from 2020- 2023 and a multi-year Business Plan, setting out a clear improvement trajectory to the end of 2023/24, sits within the context of this three-year strategic framework.

40. Considering this, and the strategic impact of ongoing work on Scheme Rule changes, EDI and People Strategies and the Transparency agenda, the Board's views were sought on whether the time was right to develop a new and concurrent three-year strategy, or whether it would be better to develop a tightly focussed transitional 'holding strategy' to allow more time for the Board to develop an expansive and substantive strategy that would then run from 2025 to 2028.

41. In discussion, Board members expressed support for developing an ambitious, comprehensive future strategy with full stakeholder engagement, but felt that now was not the right time to be doing this.
42. There were mixed views of whether the best approach would be to carry forward the current strategy or to develop an interim strategy and there were also mixed views on the timescale for doing this, whether this should be one or two years; on balance the preference was one-year interim strategy to be developed as this would allow more time for a future three-year strategy to be considered and developed.
43. Recognising the amount of work involved in developing a three-year Strategy, a question was raised about whether consideration ought to be given to developing a four or five-year Strategy instead.
44. Reflecting on the Board's views, the CO stated that a one-year interim strategy, taking into account the current Strategy and Business Plan, could be developed for 2023/24; this could set out three strategic objectives. For a shorter one year holding period these strategic objectives would be limited to what was achievable within this period and would be similar in nature to the Business Plan priorities, recognising that LeO Business Plans are significantly strategic in nature. A full strategic review could then take place over the course of 2023/24 to determine the future longer-term Strategy.
45. Following detailed discussion, and **noting** the points made by the Board, the OLC Chair explained that she would work with the CO to identify a tangible process for developing an interim Strategy and the new longer-term Strategy.

Item 8 Transparency Reports

46. The Board **noted** and **approved** the following documents for publication:
 - The Q1 Board member Register of Interests, subject to a minor amendment.
 - The Q1 Ombudsman and Senior Manager's Register of Interests
 - The Board member expenses, which showed the final claims for 2021/22 and claims for 2022/23 up to 17 June 2022.
 - The Q1 Gifts and Hospitality report.

ACTION: Board Secretary to publish the transparency reports subject to a minor amendment to the Board member Register of Interests.

Item 9 - Board Paper Redactions and Non-Disclosure report

47. The Board reviewed a paper setting out the redactions and items for non-disclosure proposed in respect of the June Board papers.
48. The Board provided feedback on the Executive report that may require redaction. The CO **agreed** to review the Executive report to consider whether any redactions were required.

ACTION: The CO to review the Executive report and consider whether any redactions were required.

49. The Board approved the items identified for redaction and non-disclosure, noting that there may be an additional item for redaction in the Executive report.

ACTION: Board Secretary to publish the June Board papers in line with the Board's approval of the redactions and items for non-disclosure and any redaction to the Executive report.

Item 10 – Board Effectiveness

50. In line with the Board's commitment to improving Board effectiveness, Alison Sansome reflected on the Board meeting; the following key points were made:

- The Executive report had been a good paper and had triggered good discussions on Performance, Hub Strategy and the Budget.
- There had also been good debate on 2023/24 Budget and Business Planning and the Strategy Timing.
- Overall best paper had been the 2021/22 Annual Report and Accounts. Recognising the importance of this document, it had been presented professionally and had captured LeO's improvement journey well.
- The Board had appreciated how they had been kept updated throughout the Annual Report and Accounts production process and how this had enabled them to provide early feed. Additionally, the Board had appreciated the way MoJ and LSB approvals had been sought in advance.
- Further improvements could be made by making the Annual Report and Accounts more concise and a customer facing version could be considered for the future.
- Discussions at the meeting had been of a high quality and a range of views had been expressed.

Item 11 –Any other Business

51. The Board Secretary alerted the Board to an out of committee Board paper that was to be issued seeking approval of the Welsh Language report.

52. On behalf of the Board, the OLC Chair thanked Sandra Strinati for her dedication and commitment to LeO, its staff and its customers, and for her significant input in driving LeO's performance improvement journey and wished her well for the future.