

**Minutes of the One Hundred and Third Meeting of the  
Office for Legal Complaints (OLC)**

**Thursday 26 March 2020**

**10:05 – 14:35**

**Present:**

Wanda Goldwag, Chair

Lis Bellamy

Rod Bulmer

Rebecca Hilsenrath

Shrinivas Honap

Annette Lovell

Jane Martin

**Board Secretary:**

Kay Kershaw

**In attendance:**

Elisabeth Davies, OLC Chair Designate

Rebecca Marsh, Chief Ombudsman

Brendan Arnold, Director of Corporate Services

Steve Pearson, Head Ombudsman (item 6)

Mariette Hughes, Head Ombudsman (items 6)

Sarah Ritzenthaler, Parliamentary and Policy Officer (items 7 and 8)

Marcus Passant, Head of HR (item 12)

**Preliminary issues:**

The Board meeting was quorate.

The Board meeting took place by conference call, due to restrictions in place around COVID-19 Pandemic.

**Item 1 – Welcome, apologies and declaration of conflict of interest**

1. The Chair welcomed attendees to the meeting, including the OLC Chair Designate, Elisabeth Davies.
2. There were no apologies.
3. Elisabeth Davies declared an interest in the Parliamentary and Health Service Ombudsman.
4. There were no other declarations of interest reported.

**Item 2 – Previous Minutes**

5. The minutes of the OLC Board meeting held on 27 January 2020 were **approved** for accuracy and **approved** for publication.

**ACTION: Board Secretary to publish the minutes of the OLC Board meeting held 27 January 2020.**

6. The minutes of the OLC Board meeting held on 4 March 2020 were **approved** for accuracy and **approved** for publication.

**ACTION: Board Secretary to publish the minutes of the OLC Board meeting held 4 March 2020.**

7. The minutes of the RemCo meeting held on 18 December 2019 were approved for publication.

**ACTION: Board Secretary to publish the minutes of the RemCo meeting held on 18 December 2019.**

8. The Chair of RemCo drew the Boards attention discussions that had taken place at this meeting about:
- the new appraisal process, where the DCS had been asked to provide more detail on how the appraisal process was being used in corporate areas of the organisation. This information was provided at the March meeting.
  - the HR update setting out the current position on recruitment which has been successful, but had not alerted the Committee to the attrition rate in December, and
  - the People Plan which had been discussed in some detail and recommendations had been made for improvement.
9. The minutes of the ARAC meeting held on 7 October 2020 were **approved** for accuracy and **approved** for publication.

**ACTION: Board Secretary to publish the minutes of the ARAC meeting held on 7 October 2019.**

**Item 3 – Matters arising and outstanding actions from previous meetings**

10. Board Members were assured that the top 10 risks would be shared with them once the OLC's 2020/21 budget had been finalised.
11. Board ratified a decision made out of committee in February to approve the OLC's response to the LSB's consultation on its 2020/21 Business Plan.
12. Board **noted** the update on the actions from previous meeting.

**Item 4 – Executive Report**

13. The Chief Ombudsman (CO) updated the Board on the actions being taken in response to the COVID-19 pandemic. The business continuity plan has been activated to incident level 3. All staff were now working from home, but the office remained accessible to a small number of staff from the IT Team and from Family Services.
14. Staff would be working as flexibly as possible whilst balancing any caring responsibilities, so normal working patters were unlikely during this time. Over the next few days discussions would take place with staff to determine their working patterns with a view to having a clearer understanding by the end of the month of the organisation's delivery capacity.
15. Staff well-being remains the key priority for the CO and the Management Team. Well-being champions and line managers were regularly checking in with staff and channels were available for staff to raise questions and concerns directly with the Management Team. Regular staff briefings and updates were taking place to ensure that key messages were being delivered. Staff were responding positively to the change in working conditions and the support that had been put in place.

16. The CO reported on current sickness levels and the number of staff currently self isolating. In line with MoJ requirements, staff absence reporting had been enhanced to ensure that accurate information was being captured about the number of staff affected by the virus.
17. The next group of new starters join the organisation on 1 April and are to work from home. IT equipment would be provided to them.
18. A Management Command Team has been set up and meets daily to monitor and respond to issues as they develop. Critical incident logs have been created and service policy issues were being reviewed in order to determine whether changes to the Scheme Rules might be required. Daily contact with the MoJ was taking place and details of the business continuity plan, risk registers and costs associated with the pandemic were being shared.
19. The CO assured the Board that all steps were being taken to minimise any potential negative impact on organisational performance and delivery at this time and that the organisation's IT systems were working effectively. She advised of a known international problem with Microsoft, which was being monitored.
20. The Chair of ARAC stressed the need for staff to ensure that data security was observed when working from home. He suggested that staff might find it helpful to tether multiple devices when working from home and it was agreed that the Head of IT and Governance would be asked to contact him to discuss this further.

**ACTION: Head of IT and Governance to contact the Chair of ARAC to discuss the potential benefits of tethering multiple devices when working from home.**

21. The Chair asked the Executive to ensure that the Board was kept updated on the impact of the pandemic on organisational performance and delivery and all other relevant matters.

**ACTION: The CO to ensure that Board Members were kept updated on the impact of the pandemic on organisational performance and delivery and all other relevant matters.**

22. The Board discussed the potential for some households to experience financial hardship as a result of reduced household income at this time and suggested that the Executive should discuss this with the Ministry of Justice (MoJ) and Legal Services Board (LSB) to find out whether a hardship fund would be put in place to help those staff affected.

**ACTION: The Executive to discuss with the MoJ and LSB whether a hardship fund would be put in place to help those staff facing financial hardship.**

23. The CO confirmed that she would include an update on the impact of the COVID-19 pandemic on the organisation in her post board communication with the LSB.

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

#### **Item 5 – Finance Report**

25. The DCS presented the Finance Report setting out the financial position at the end of month 11 and an overview of the key issues in the management accounts. He reported a broadly balanced position, with a year to date underspend of £53,000 against the revenue budget and an end of year forecast standing at an underspend of £10,000. As the end of the financial year approaches, the capital spend was being closely monitored.

26. The Chair of ARAC reported concern that there was an underspend in salaries, especially as the OLC had requested a budgetary increase 2020/21.

27. In discussion, the Board requested an income forecast in respect of the COVID-19 Pandemic; a balance sheet, and an updated financial position at the end of March.

**ACTION: The DCS undertook to update Board when the outturn position had been established.**

28. As a result of staff leaving to join other local organisations that pay higher salaries, the Chair asked the Executive to undertake a pay benchmarking exercise at the earliest opportunity. The DCS agreed that this would be undertaken once the final outturn position for 2019/20 budget had been settled.

**ACTION: The DCS to initiate a pay benchmarking exercise once the final outturn position for 2019/20 budget had been settled.**

29. The DCS confirmed that a capital outturn update would be issued to the Board when all items were accounted for.

**ACTION: DCS to issue a capital outturn update to the Board.**

30. In response to a question the DCS confirmed that all regular deliveries had been cancelled now that the office had been closed.

31. The Board **noted** the Finance report.

#### **Item 6 – Performance Report**

32. Head Ombudsman, Steve Pearson, reported that performance in February was below the business plan target. This was due to the impact of previous attrition, the level of experience now within the investigator cohort and limited management capacity due to absence and involvement in recruitment activity.

33. The impact of the pandemic on performance at the end of March was currently unknown but performance was expected to be broadly in line with current forecast.

34. A discussion took place about why performance between July and October 2019 had improved but had dropped again since November. The Board was advised that there had been no evidence to indicate that the organisation had been using unusual ways of working in the months before November, but the impact of staff winding down, having handed in their notice, was thought to be a contributory factor in the decline in performance in November and December. Additionally, the loss of this cohort of staff had had an overall impact on organisational performance.

35. The Board was concerned by feedback from members of Staff Council at the March RemCo meeting advising that investigators spent an average of two hours a day on administrative tasks. The Executive was surprised by this feedback and felt that it was not an accurate reflection of what was going on across the whole of the investigator cohort. The Head Ombudsman, Mariette Hughes, agreed to investigate this further and report back to RemCo in due course.

**ACTION: Head Ombudsman, Mariette Hughes, to investigate how much time investigators were spending on administrative tasks and report back to RemCo at its next meeting.**

36. The Chair of ARAC raised concerns about the accuracy of the modelling around predicted and actual performance, advising that actual performance should not fall off by 50%. He recommended that the Executive consider reviewing the modelling to provide assurance of its accuracy. The Executive agreed to speak with the Chair of ARAC outside Board to gain a full understanding of the point and then consider reviewing the modelling to provide assurance of its accuracy around predicted and actual performance.

**ACTION: The Executive agreed to speak with the Chair of ARAC outside Board to gain a full understanding of the point and then consider reviewing the modelling to provide assurance of its accuracy around predicted and actual performance.**

37. The Board challenged the Executive on their predictions on attrition and recruitment considering the current pandemic lockdown when movement in and out of staff might be much slower. In response, the CO acknowledged that the movement of staff might slow down in the short to medium term but explained that job losses resulting from the pandemic in other areas might present LeO with an opportunity for future recruitment. Overall, the CO felt that the organisation would need time to take stock of what is going on more widely over the next week or so before beginning to undertake any further forecasting or looking at this in any detail.

38. The Board also challenged the Executive to think about how staff might respond, post Covid-19, to the steps taken by the Executive to maintain business continuity and to consider learning from the situation to identify what could be done differently in the future. In response, the CO reported that the Executive had given a lot of thought to culture and engagement recently and had recognised that the current situation presented an opportunity to learn about how the organisation could operate differently in the future. She explained that in the last week the organisation had already begun to operate differently, and she had seen a greater coming together of the senior leadership team and the staff.

39. The Board discussed the challenges of the COVID-19 lockdown on individual complainants and service providers. They noted that some service providers might not be able to work during this time and case investigations would therefore could not be progressed. For those that were able to work, methods of communication and timescales for responding might have to be adjusted to accommodate specific circumstances. They discussed the implications for investigators who might be unable to progress their cases as a result of these circumstances and how individual performance targets and organisational KPIs would need to be adjusted accordingly.

40. The CO assured the Board that investigators would be expected to progress their cases when able to do so, but that it would be unfair to measure their performance wholly on case closures at this time. Instead, individuals would also be measured on their values, behaviours, commitments and engagement and it was hoped that this would be a catalyst for individuals to shift their focus from purely output to some of the wider organisational issues.

41. The Board noted that communications with the LSB and MoJ would need to be adjusted to ensure that they are kept informed of developments.

42. Following discussion, the Board noted the Performance report.

#### **Item 7 – Horizon scanning.**

43. The Parliamentary and Policy Officer presented a paper setting out an update on developments in the external operating environment.

44. Over the past two months there have been several significant changes within key areas of law, including residential conveyancing, personal injury and immigration services as well as developments in the regulatory framework for legal service providers.
45. Additionally, change was anticipated as a result of much greater parliamentary and government interest in justice and related matters. If Justice were to become a more prominent element of policy considerations, LeO's strategic priorities would need to be realigned in order to retain a significant voice in the sector.
46. The Board discussed the impact of the COVID-19 pandemic on the legal sector, which is leading to many short-term significant changes in the way legal services were being delivered.
47. As a result of the pandemic, LeO is likely to see an increase in the number of employment law and estate administration complaints in the future.
48. It was likely that LPC examinations would either be cancelled or postponed.
49. A discussion took place about the approaches being taken by other ombudsman services as a result of the pandemic, with some services pausing complaints and extending deadlines.
50. The Board **noted** the horizon scan.

#### **Item 8 – Annual Report and Accounts Timetable**

51. The Board **noted** the timetable for the Annual Report and Accounts (ARA).
52. The Chair asked David Winks to find out whether there was likely to be a delay in laying the OLC's ARA as a result of the pandemic and report back to the Board.

**ACTION: David Winks to find out whether there was likely to be a delay on in laying the OLC's ARA as a result of the pandemic and report back to the Board.**

#### **Item 9 – Update on the OLC's 2020/21 Budget Application**

53. Rod Bulmer and Jane Martin reported on discussions that had taken place at the LSB's Board meeting where the LSB Board had considered the OLC's 2020/21 Budget application.
54. They reported that, that having articulated the OLC's rationale for initially seeking a budgetary increase, they advised that the OLC no longer felt that it was appropriate to pursue an increase at a time when the impact of the COVID-19 pandemic on the organisation was uncertain.
55. The LSB Board agreed with the OLC's pragmatic approach and, in light of its own concerns about the OLC's 2020/21 budget application, had approved a standstill budget, with CPI inflation. The OLC would have an opportunity to apply for a budgetary increase later in the year if required.
56. It was agreed that the CO would clarify with Matthew Hill exactly what the LSB meant by a standstill budget with CPI.

**ACTION: The CO to clarify with Matthew Hill exactly what a the LSB meant by a standstill budget with CPI.**

57. The Board's formal agreement to adopt a standstill budget would be sought by the DCS out of committee. Subject to the Board's agreement, he would then notify the LSB accordingly.

**ACTION: The DCS to seek Board agreement to adopt a standstill budget before the end of March and inform the LSB accordingly.**

58. The DCS agreed to forward a note to the Board of the discussion that had taken place at the LSB Board meeting to the Board.

**ACTION: The DCS to forward a note to the Board of the discussion that had taken place at the LSB Board meeting.**

59. The Board confirmed that a review of the 2020/21 budget application would be undertaken and learning from this would be captured.
60. The Chair advised that the 2020/21 budget would need to be re-calibrated and suggested that a meeting should be convened between the CO, DCS and new Chair to agree how to proceed with this. Board Members asked to be fully sighted on this and so it was suggested that a Board telephone call should be considered.

**ACTION: The DCS to consider convening a Board telephone call to discuss the recalibration of the OLC's 2020/21 budget.**

61. The DCS advised that the re-calibrated budget would need to take into account increases in office rental costs and licences for IT.
62. The Chair of RemCo reported that the date of the next RemCo meeting would be brought forward so that the People Plan and delivery plan could be progressed.

**ACTION: Board Secretary to reschedule the next RemCo meeting.**

#### **Item 10 – Update on the ARAC meeting held on 2 March 2020**

63. The Chair of ARAC updated the Board on the ARAC meeting held on 2 March 2020.
64. The committee considered reports on Risk Assurance, noting that a full review of the risk framework had been undertaken since the last committee meeting, and Information Rights and Security Incidents.
65. External Audit presented the External Audit Planning Report for the 2019 /20 Financial Statement Audit. Internal Audit presented their 2019/20 Audit Plan and the Committee discussed the findings of the audits on Casework Compliance and Payroll; some amendments to the 2019/20 Internal Audit Plan had been requested and once finalised the Audit Plan would be aligned to the Top 10 Risks.
66. The committee considered the timetable for the preparation and submission of the OLC's Annual Report and Accounts and reviewed the OLC's final budget application prior to its submission to the LSB.
67. The Board **noted** the update the ARAC meeting held on 2 March.

#### **Item 11 – Update on the RemCo meeting held on 11 March 2020**

68. The Chair of RemCo updated the Board on the RemCo meeting held on 11 March.
69. The Committee had reviewed and commented on the revised People Plan and advised the Board that the plan would be further developed in the coming months along with the delivery plan.

70. The Committee reviewed and commented on the results of the Civil Service Survey, the Gender Pay Gap report, the proposals for the 2020/21 Celebrating Success; Reward and Recognition Scheme, the policies that fell within RemCo's remit and the annual appraisal process. The Committee will be closely monitoring the annual appraisal process following concerns that it was not being consistently applied across the organisation.

71. The Board noted the **update** on the RemCo meeting held on 11 March.

#### **Item 12 – Update on HR Matters**

72. The Head of HR presented a report setting out an overview the experiences and outcomes of new starters that joined the organisation in July and September 2019 and a summary of the key learning from the feedback staff had provided.

73. Overall feedback on recruitment and on-boarding had been very positive, but staff thought that more could be done to support them once in role. New starters had felt under significant pressure to perform and believed that the organisations' expectations on performance were unrealistic. Additionally, new starters we're unsettled by the high staff turnover rates and felt that the pressure and drive on performance created tensions that were reflected through line management and organisational communication.

74. The Board was advised that feedback from new starters would now be sought on a regular basis and this would be reported back to RemCo as part of the ongoing review of the People Plan.

75. The Board **noted** the update on new starters.

76. The Board reviewed the 2020 People Plan which had been developed with the support of RemCo and had been approved by the Committee on 13 March for submission to the LSB alongside other documents in support of the OLC's 2020/21 budget application.

77. The Board was advised that the People Plan was a dynamic document and would therefore be subject to further development in the future. The date of the next RemCo meeting would be brought forward so that work could be undertaken to agree the delivery plan that sits beneath the People Plan. Going forward, the People Plan and delivery plan would need to take into account the finding of the Independent Review.

78. In discussion, Board Members suggested that measures of success for the People Plan were identified but urged caution in setting KPIs. They advised that some of the successes would be cumulative as a result of the successful delivery of different areas of the People Plan.

79. Board Members also suggested that consideration should be given to how staff would engage with the People Plan and how they would take ownership for their areas of responsibility.

80. Additionally, Board Members stated that further consideration would need to be given to the implications of a of a standstill budget on resources to deliver the People Plan and that it would need to be realigned to other key corporate documents including the Road Map to Green and Business Plan to take into account the new budget.

81. The Board **noted** the update of the People Plan.

82. The Board reviewed the results of the Civil Service Survey. The Board noted that response rates were lower and less favourable than previous years. The results from the Investigator cohort were disappointing and highlighted a risk with engagement and retention. The results



from BAME respondents were more positive than the results from the rest of the organisation.

83. The Management Team is committed to addressing the issues highlighted in the responses to this survey and intended to do this by changing behaviours and values, rather than through action plans. Clear statements of intent to address the issues raised have been issued to staff by the Executive.
84. The Board **noted** the results of the Civil Service Survey and was assured that many of the issues highlighted would be addressed through the People Plan which would be monitored by RemCo.

#### **Item 13 – Annual Review of Scheme of Delegations and Matters Reserved to Board**

85. The Board, reviewed the Scheme of Delegations, **noting** that minor amendments had been made to reflect the changes to RemCo's Terms of Reference that were approved by the Board in September 2019. The Board **approved** the Scheme of Delegations.

**ACTION: Board Secretary to publish the updated Scheme of Delegation.**

86. The DCS reported that there were no changes to the Matters Reserved to Board. Having reviewed the document, the Board **approved** the Matters Reserved to Board.

#### **Item 14 – Board paper redactions and non-disclosure report**

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

**ACTION: Board Secretary to publish the January Board papers subject to the approved redactions and items for non-disclosure.**

89. The Board was advised that the DCS and Data Protection and Information Compliance Officer were planning to undertake a review of the internal process for identifying items in Board papers for redaction and non-disclosure.

#### **Item 15 – Board Effectiveness**

90. The Chair commented on that hard work undertaken by the Board and Executive regarding the preparation of the 2020/21 budget for submission to the LSB. She felt it was now time for the Board to take stock and breathe as the new Chair takes over to lead the Board forward. She urged Board Members to take care not to step into the Executive space going forward and thanked everyone for their hard work and commitment over the last few months.
91. Board Members advised the Executive of their preference for conference calls when documents needed to be approved, rather than re-drafting by email.
92. It was felt that the Board had become more effective over the last 12 months as Board Members had got to know each other better. Board Members felt that it was important to spend time outside of Board meetings getting to know one another.
93. Elisabeth Davies advised of the challenges she faced as a new Chair at a time when she was unable to meet people face to face and was mindful of finding different ways of building effective relationships remotely.

**Item 16 – Any Other Business**

94. Board Members and the Executive thanked the Chair for her hard work and commitment to the OLC and wished her well for the future.
95. The Executive confirmed that Legal Updates were issued to the Board off agenda and were for information only.