

Meeting	OLC Board Meeting	Agenda Item No. Paper No.	5 96.4
Date of meeting	24 June 2019	Time required	50 minutes

Title	The Pre-Assessment Pool – Forecast
Sponsor	Steven Pearson, Head Ombudsman & Brendan Arnold, Director of Corporate Services
Status	OFFICIAL
To be communicated to:	Members and those in attendance

Executive summary
<ol style="list-style-type: none"> 1. The scheme operated by LeO has been in existence for a number of years. Over this time the rules and methods of assessment have remained constant, but the process used – including the teams responsible for assessment – have been changed from time to time, particularly during the Modernising LeO Programme within the last 18 months. The latest changes have given visibility to a pool of files awaiting assessment, the ‘Pool’. 2. There has always been a portfolio of files awaiting attention but in the past it would have been described and viewed differently. Consequently, the existence of the Pool, <i>per se</i>, is not a necessarily a cause for concern as long as agreed KPI timeliness targets are deliverable and the length of the customer journey is deemed acceptable. That having been said LeO has an interest in improving the overall elapsed time of the customer journey, looking forward, and the size of the Pool is one dimension of that ambition. At the date of the Board Away day (29th April 2019) the number of files in the Pool was 2980. 3. In this regard it is particularly important to understand that with the operation of the new case management system each new customer contact automatically creates a file. Historically, files were created when the jurisdiction test element of the assessment was completed, but not necessarily the full assessment. It follows that until recently customer contacts falling within the new definition of ‘files’ did not have the same visibility and it is not possible to engage in comparative review of the position then and the position now.

4. The key points of briefing are:
 - a. The Pool is a dynamic entity and whilst the total number of files in the Pool has remained broadly static in recent months, the composition of the Pool changes daily. Files are taken from the Pool for assessment by investigators on a daily basis and new files are added by the General Enquiries Team following contacts from customers. Complicit with this is the fact that there is no overall constraint on the number of files entering the Pool (based on customer demand) and the numbers leaving the Pool are constrained by the capacity of investigators to proceed with investigation.
 - b. It is important to appreciate that the Pool is not inert and each file waits there before being admitted to the assessment process. The current number of files in the Pool have a direct relationship with the high volume of files processed in November 2018 at the point of implementation of the new General Enquiries Team process and the new Customer Assessment Tool (CAT).
5. It is clearly in the interests of complainants that files spend no longer in the Pool than is necessary. Similarly, it is in the interests of LeO to ensure that the number of files in the Pool is reduced over time to an optimal number where stability is achieved, where Investigators' capacity is fully utilised and where waiting times are reduced.
6. This report forecasts the future downward trajectory of the size of the Pool.
7. The assumptions used to inform the 2019/20 business plan which are based on the impact of delivering the gains from the Modernising LeO programme, optimising recruitment and introducing work flow tools – are consistent with those used in this Forecast.
8. The ability to reduce the population of files held within the Pool is constrained by:
 - a. The size of the staffing establishment that is affordable within Leo's current year budget of £12.3m. Presently within an establishment for investigators of 100 FTE there are 96 FTE employed but c. 20% of these resources are consumed as indirect time principally annual leave, absence, training and engagement with management activities.
 - b. The capacity to deliver closures that are commensurate with this level of resources. The 2019/20 Business Plan contains a closure target of 7,280 cases in the current financial year.
 - c. Constraints created by the variable incidence of good performance in the Operations cohort.
 - d. The extent to which application of management solutions to optimise work flow deliver improved performance (e.g. Workflow Management Tool, Quality and Feedback Model); and

- e. The operation of suitable approaches to engage, support and reward staff in optimising the closure of cases.
9. As all of these factors are largely fixed in terms of impact this results in a supply curve which is relatively inelastic and which is not able to support higher levels of throughput on other than a marginal basis in the short term. The availability of financial resources also represents a very real constraint.
10. This being so the forecast concludes that on the basis of action already implemented, or about to be implemented, the Pool is expected to reduce from 2,980 at 29th March 2019 to c. 2,168 files (+/-) 10% by 31st March 2020 and that it is expected to be capable of reducing further beyond that date.
11. In addition, through deploying team RC10 on exclusively on low complexity cases the Pool is then expected to reduce to 1,928 (+/-) 10% by the same date. This is believed to be the maximum quantum of adjustment that can be reached for unless additional financial resources are acquired.
12. Further to this, investment in mediated solutions is likely to have a beneficial impact on the volume of files in the Pool at any one time. The extent of this impact cannot be forecast until the operating features of the eventual scheme are defined. This issue is discussed more fully elsewhere on this agenda.
13. Board are asked to note that the number of files in the pre-assessment Pool is an important consideration in determining the overall customer experience within the existing scheme but is unlikely to represent a *Key Performance Indicator* in delivery of the scheme. It will however need to be considered carefully in forming the new KPI's that will be presented informally to Board for discussion later in the summer and prior to adoption of an adjusted set as part of Business Plan 2020/21.

Conclusion

14. In this report a number of management solutions have been considered and of these most have been found to be infeasible for the reasons set out above or have already been adopted.

15. It is concluded that:

- a. The size of the Pool is likely to reduce from 2,980 at the date of the Board Away day on 29th March to 1,928 (+/- 10%) files at 31 March 2020.
- b. This is believed to be the maximum quantum of adjustment that can be reached for unless additional financial resources are made available.
- c. On the basis of a bid for additional financial resources it would be possible to invest in one of the Supplementary Initiatives, likely mediated solutions. The impact of such an approach is presently being researched for further consideration.

Recommendation

16. It is recommended that:

- a. The prospect of bidding for additional resources of up to £300,000 in the current financial year is explored with the Legal Services Board and Ministry of Justice.
- b. The bid is focused on the supplementary initiative for Mediated Solutions.
- c. The position regarding progress in attaining the monthly business plan targets continues to be closely monitored at Board.

Recommendation/action required

Board is asked to **NOTE** the report and to **APPROVE** the recommendation.

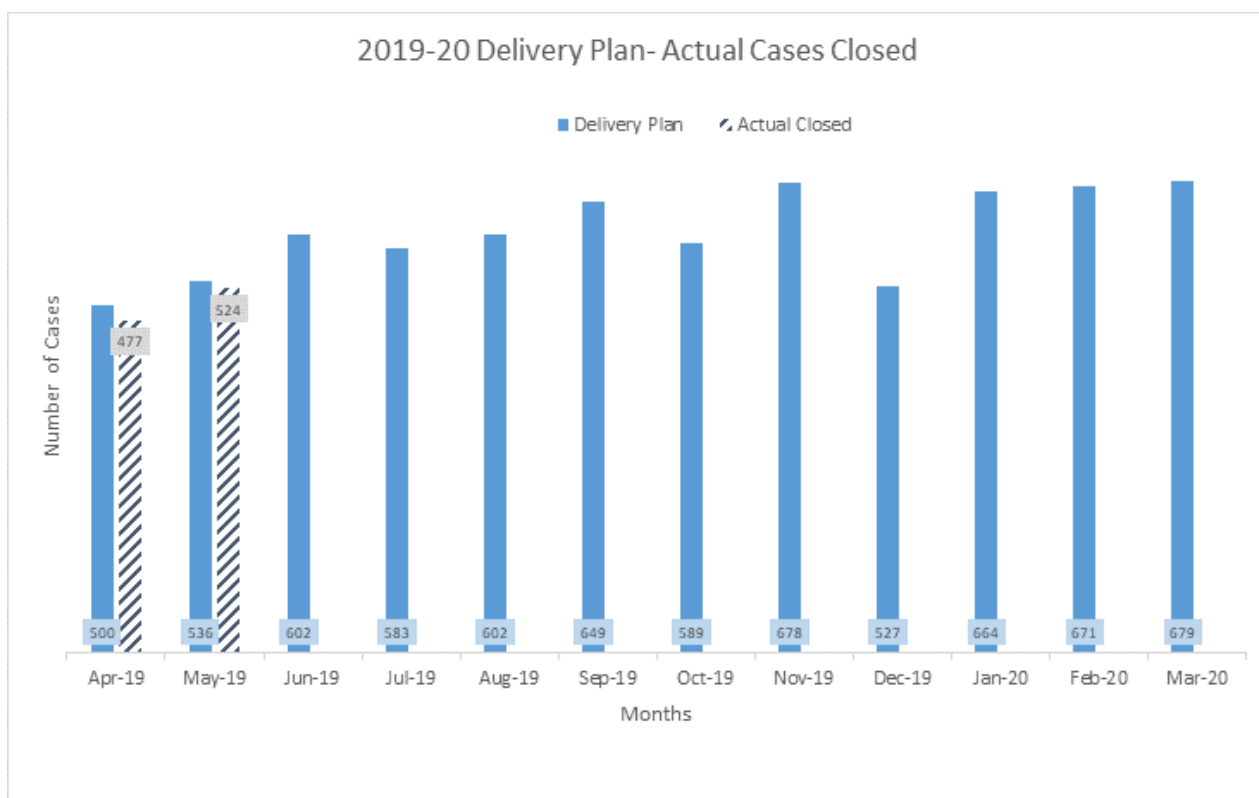
The Investigatory Process: Assessment to Closure

17. As noted in the Executive Summary the Pool is dynamic and its composition changes daily. The process is set out below.
18. Customer contact through all channels (Customer Assessment Tool, email, letter and telephone) creates files that are converted if suitable to files waiting assessment and added to the Pool by the General Enquiries Team. It follows that if demand increases (represented by increasing customer contact) this has the prospect of increasing the number of files awaiting assessment and – unless capacity is increased to compensate – the size of the Pool and associated waiting times will increase commensurately.
19. Files are taken for triage from the Pool into the Resolution Centre, which like other parts of the business operates within capacity constraints based on available resources. The triage process determines the expected complexity (Low/Medium/High) for each file taken from the Pool and also considers issues of vulnerability. Following this files are formally assessed and accepted for investigation within the Scheme Rules and the provisions of the Legal Services Act. Investigation cannot proceed unless files have been triaged and therefore the corpus of triaged files is a potential constraint on the number of cases able to proceed to the assessment and investigation process. In practice this is managed in such a way that this constraint is minimised or has no impact.
20. The assessment process converts files into cases for investigation. Investigators operate within a system which aims to ensure that the burden of case work is optimised and consistent with the attainment of timeliness targets contained in the business plan. It follows that if additional caseloads were to be assigned this would compromise the agreed closure and timeliness targets.
21. Other factors can have a negative impact on available capacity at an operational level and these are (1) the necessary re-allocation of cases following long term staff absence and (2) the development of new starters. Clearly, if accepting cases that are partly investigated by a team member on long term sick leave, a given investigator would be less able to accept new cases. For new starters there is a period of at least 6 months during which they are supported to build skills and capacity; it follows that new tranches of recruitment do not provide a full and immediate improvement to investigation capacity.
22. Annex 1 is a schematic which shows the different stages in the business process from customer contact to closure.

25. The Operations Management Team has the management of these dependencies and constraints at the core of its endeavour; the switching of constrained resources from one part of the process to another has both a positive and a negative impact and insight is needed to ensure that these effects are understood and acceptable in all cases. Annex 2 shows some typical cases where the switching of resources is commonly used to manage local capacity pressures.

Current Performance

26. The current performance in 2019/20 against delivery plan targets is shown in Figure 2 below:



27. For the first two months of 2019/20 performance has tracked the target underlying the business plan with a shortfall of just 12 cases to be closed in May. The Executive has confidence that further progress can be made and progress will be shared with the Board.

Supplementary Initiatives

28. In order to explore means of presiding over a steeper gradient of reduction in the Pool and greater throughput of cases generally, the Executive is already developing feasibility studies for 3 supplementary initiatives. A separate item on this agenda has the preliminary assessments for these initiatives. They are:
- a. The externalisation of part of the investigatory work to support in house teams in dealing with the existing case load. The key constraints that need to be overcome are financial (availability of budget to pay a contractor) and legal, that is, the sculpting of proposals to sit within the powers made available to LeO in the Legal Services Act 2007.
 - b. The recruitment of a geographical or virtual hub to mitigate the ability to recruit locally. The constraints that need to be overcome are management and quality control, potential loss of impartiality and availability of financial resources to remunerate staff assigned to any such hub. It is further noted that local recruitment has now been undertaken successfully, thus removing for now the issue that this initiative sought to overcome.
 - c. The adoption of mediated solutions to file resolution with the objective of resolving files before they enter the assessment process. The constraints here are believed to be financial and legal in some measure but LeO is in touch with organisations that successfully use a mediated solution in this way, albeit within a different legal jurisdiction.
29. Any increases in capacity that could be gained through eventual implementation of these channels is to be regarded positively but it is predicted in this paper that implementation is unlikely to impact the future course of events in a significant way from a strategic viewpoint, notwithstanding the value of gains made at a tactical level.
30. Furthermore, acknowledging that the availability of financial resources are likely to constrain implementation of all of these approaches and that a bid to the Legal Services Board and Ministry of Justice is likely to be necessary to secure these, it is unlikely that it will be possible from a financial or practical viewpoint to pursue more than one of the supplementary initiatives. Further, in order to implement the chosen course of action successfully budget cover for the year following would also need to be secured.

Methodology used for this Review

31. LeO maintains a Forecasting Model (FoM) which is used to forecast the numbers of cases that are likely to be moved to closure. The FoM contains a significant number of variables and is able to be used to inform a level of scenario planning to assist the Head Ombudsman in optimising work flow to the maximum extent possible given operational constraints.
32. The following approaches were used to develop the Forecast expressed in this report
 - A. A review of additional management solutions that could be explored to maximise cases closed.
 - B. A review of the input variables in the FoM to assure that these are based on the best information available.

Management Solutions

- a. Externalisation: a preliminary assessment appears elsewhere on this agenda,
- b. Hubs: a preliminary assessment appears elsewhere on this agenda,
- c. Mediated Solutions: a preliminary assessment appears elsewhere on this agenda.
- d. Quick Win Team: evidence shows that an experienced investigator should be able to close around 7 cases per month and to accept a similar number of new cases in each month. However Team RC10 'The Legacy Team' has shown that there are some team members who are able to close a higher level of cases than this, with some closing 10 or more per month. Given that RC10 is drawing to the end of its project assignment to close all Legacy cases this premium capacity could be deployed to resolve low complexity cases at a faster rate than is generally experienced in Operations more widely. This would have a beneficial impact on the closure profile to March 2020 and would be expected to reduce the Pool by a further 240 cases at that date. This would adjust the expected size of the Pool at March 2020 from 2,168 to 1,928 files (+/- 10%). In order to deliver this additional reduction there would need to be sufficient volume of triaged files. The Executive has already taken the decision to pursue this option and to take steps to ensure that a sufficient supply of triaged files is maintained.
- e. Further use of Pool Ombudsmen for Investigation: a part of the current quantum of Pool Ombudsmen has been trained in investigatory work but the greater part has not. However the availability of this resource - which tends to be outside of normal business hours - does not meet the needs of an

investigatory process which tends to operate within such hours of business. For these reasons the Executive is not planning to adopt this option.

- f. Further use of the Pool Ombudsmen for Triage: there are presently 14 Pool Ombudsmen. In the event that a capacity constraint for triage is identified it would be possible to train the Pool Ombudsmen to undertake triage work. Such a move would not improve the existing closure path unless there were to be an insufficient supply of triaged files. It is further noted that the Pool Ombudsmen are a relatively expensive resource. For this reason the Executive is not planning to adopt this option.
- g. Further use of the Pool Ombudsmen to Backfill: it is possible for Pool Ombudsmen to be re-allocated to support the Level 1 and 2 ombudsmen and this is already done. It is noted that the Pool Ombudsmen are a relatively expensive resource.
- h. Introduction of Administrative Support to Investigation Teams: this could be undertaken to make available for investigation time that would otherwise be used for administration on the part of trained investigators. This would provide a modest ability for a given investigation team to take on more new cases each month but at significant additional costs which would need to be incurred on the basis of 'over programmed' recruitment and with the financial risks associated therewith. In the event financial resources could be identified, it is considered that it would be more productive to recruit additional investigators.
- i. Use of Chapter 5 of the Scheme to dismiss more cases at an earlier stage: as part of triage and assessment consideration is given to whether LeO can add value by taking forward a given investigation. This is also an explicit component of the Quality and Feedback process. Any further extension of the discretion would need substantial changes to Scheme Rules and consultation on these but with limited benefit beyond the existing active application. At this time the Executive has not resolved to pursue this course but this position will be kept under review.
- j. Application of Scheme Rules: the Scheme permits the exercise of discretion to accept for investigation a file (which otherwise would be rejected) where it is considered fair and reasonable to do so. A review of the level and circumstances under which this discretion is exercised could change the numbers of files accepted for investigation overall. The observed change would be expected to be commensurate with any change in the decision criteria and accordingly, although the viability of such an approach will be considered, the Executive would not expect a material change in the number of files accepted.
- k. Further use of Pool Ombudsmen to support stricter application of Rule 5.7: issues as above.

- I. Recruit additional staff: the FoM already assumes that recruitment will take place to minimise loss of direct time through vacancies. Accordingly the FoM is implicitly assuming that the impact of lost time through vacancies will be mitigated by a level of 'over recruitment' to maintain direct hours at the planned level. It would be possible to consider levels of recruitment that are even higher should financial resources become available, the key issue being the availability of budget cover in the current year and the year following. The financial constraint is key here since any permanent staff would need to be assured of budget cover in the years following. It is regarded as infeasible to recruit the necessary staff on a fixed term basis since it takes 3-4 months before a new starter reaches acceptable productivity and up to 6 months before reaching optimal productivity; in addition there is the problem of disruption to workflow when cases are re-allocated at end of contract term.
- m. Reduce Quality: In a commercial context there are likely to be two standard responses when the level of productivity needs to be raised. The option of increasing the level of staff resources and the constraints that apply have been discussed above. This option relates to the prospect of a reduction in quality. Presently the thrust of management endeavour is to assure quality is delivered to a consistent level across the business so this approach would represent a strategic change of course. Further it would be extremely difficult to manage migration to a lower level of quality when working methodologies are still reaching for a level of consistency in existing operations. Notwithstanding this there are four compelling reasons why the Executive is not proposing to follow this route at the present time:
 - i. There would be a risk of an increased number of judicial reviews brought by legal professionals who perceive weaknesses in the decisions made by LeO. This would have an additional cost to LeO in settling such cases out of court or contesting cases in court.
 - ii. There would be a risk that more time would need to be spent on failure demand.
 - iii. Possible reputational damage.
 - iv. The 2019/20 Business Plan approved by the Board in March 2019 contains a commitment to quality.

- n. Increase Investigator case holdings: there is the prospect of delivering a one off reduction in the Pool by uplifting investigator case holdings. This would take an abnormally large tranche of files from the Pool and place them with investigators, thus accomplishing a one off reduction. However this would override a lot of high value work with teams to lodge case holdings at a deliverable level and would also have no positive impact on the delivery of timescale targets; consequently the Executive will not be taking this forward.
- o. Offering a further opportunity to achieve resolution: it may be possible to offer all parties at assessment stage to re-visit their earlier attempts at resolution before the case proceeds to assessment. The Executive has considered this approach, but retains significant concerns about the implications for the welfare of the parties in a situation where client/provider relationships have already broken down.
- p. Overtime: overtime was made available to staff in Operations for much of the preceding financial year in order to increase production. However, the level of take up was low and there is no evidence to suggest that the position would differ if it was to be offered further. There are also practical difficulties as overtime is most often worked during the evening or over weekends, times during which service providers are generally unavailable. Further, there is a risk that contacting complainants during the evening may not be received well. The Executive has resolved that overtime will continue to be offered where appropriate but the scope for significant impact on productivity is regarded as very modest.

Input Variables

33. The following list represents all of the variables that are able to be adjusted in the FoM. Accordingly a review has been conducted to assure that all of these are expressed at realistic levels. A number of these are the subject of ongoing management action including recruitment activity and attendance. The variables will be subject to ongoing review and will be adjusted regularly as needed.

The variables are:

- a. Total staff in post
- b. Annual leave
- c. Maternity leave
- d. Attendance
- e. Productivity for new starters
- f. Performance support
- g. Reasonable adjustments
- h. Training
- i. Project activities
- j. Other indirect time

The Scenario Considered

34. The following scenario emerges from the analysis in this report:

- i. Continued implementation of the 2019/20 business plan assumptions.
- ii. The efforts of team RC10 ('The Legacy Team') to be focused on low complexity cases.
- iii. A continued focus on balancing resources to capacity in the closure process.
- iv. Continued focus on reducing absence.
- v. Reaching for improvements in productivity (Quality and Feedback et al)

The Financial Position

35. The latest forecast against LeO's 2019/20 Budget of £12.3m is in line with plan. This indicates that there are no resources available in the base budget to sustain the supplementary initiatives insofar as they imply the acceptance of additional cost.
36. Aside from making savings from the existing budget the LSB has indicated a willingness to receive a bid complicit with a suitable business case for a further sum of up to £300,000 in the current year. In the event of such a bid care needs to be taken so that the monies received are able to be spent in the current financial year. Further, consideration could be given to funding detailed feasibility work from such a bid. LeO will also need to be mindful of the phasing of such a bid with the budget and business plan submission for 2020/21.
37. It is recommended that this course is explored with the LSB.



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Fol Exempt S.36 (2) (c) and S.43 (2)