

**Minutes of the One Hundredth and First Meeting of the
Office for Legal Complaints (OLC)**

Thursday 27 January 2020

11:00 – 15:00

Present:

Wanda Goldwag, Chair

Lis Bellamy

Rod Bulmer

Rebecca Hilsenrath

Shrinivas Honap

Annette Lovell

Jane Martin

Board Secretary:

Kay Kershaw

In attendance:

Rebecca Marsh, Chief Ombudsman

Brendan Arnold, Director of Corporate Services

Steve Pearson, Head Ombudsman (item 5)

Mariette Hughes, Head Ombudsman (items 5 and 10)

Siobhan Fennell, Head Ombudsman (item 10)

Laura Stroppolo, Business Planning Manager (item 9)

Sarah Ritzenthaler, Parliamentary and Policy Officer (item 11)

Chris Wade, Staff Observer (items 1 to 5 and 9 to 16)

Tessa Martin, Staff Observer (items 1 to 5 and 9 to 16)

Preliminary issues:

The Board meeting was quorate.

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

1. The Chair welcomed attendees to the meeting.
2. There were no apologies.
3. Staff observers were reminded to observe the confidentiality of discussions held during the meeting where appropriate.
4. Elisabeth Bellamy reported that she had been appointed as a Consultant at Legal Eye Limited.

ACTION: Board Secretary to update the Board Register of Interests.

5. Shrinivas Honap reported his new appointment as Non-Executive Director at the Rural Payments Agency. The Board Register of Interests had already been updated to reflect this.
6. Annette Lovell asked for the Board Register of Interests to be updated to state her job title as Director of Strategy and Engagement for the Financial Ombudsman Service.

ACTION: Board Secretary to update the Board Register of Interests.

7. There were no conflicts of interest reported with any of the business items on the agenda.

8. The Chair changed the order of discussion for some of the agenda items, the minutes of this meeting reflect the revised order in which these items were discussed.

Item 2 – Previous Minutes

9. The minutes of the OLC Board meeting held on 28 November 2019 were **approved** for accuracy and **approved** for publication.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 28 November 2019.

10. The minutes of the RemCo meeting held on 4 September 2019 were approved for publication.

ACTION: Board Secretary to publish the minutes of the RemCo meeting held on 4 September 2019.

Item 3 – Matters arising and outstanding actions from previous meetings

11. The Board **ratified** a decision made out of committee in December to appoint four Level 1 Ombudsmen.
12. The Board **ratified** a decision made out of committee to approve the 2020/23 OLC Strategy and Business Plan Consultation for publication.
13. The Chair reported that she and Rebecca Hilsenrath had given their **approval** for a purchase order to be raised for a total spend of £129k, of which £96,150 was capital and the remainder was revenue expense. The OLC's Scheme of Delegation states that Board approval (delegated to the OLC Chair and Rebecca Hilsenrath) is required for capital and revenue expenses over £106k, but it does not provide for combined expenses and so, in the interests of transparency and good practice, their approval had been sought by the Executive for this combined purchase order.
14. The Chair reported on the OLC 2020/23 Strategy Consultation event that took place on 17 January.
15. The update on the last two groups of new starters (action relating to item 3 paragraph 20 of the previous minutes) is to be reported at the Board meeting on 26 March. The Board forward plan has been updated accordingly.
16. The Director of Corporate Services (DCS) advised that confirmation was awaited from Matthew Hill to contact his former employer for comparative data on attrition rates and recruitment.
17. Board **noted** the update on the actions from previous meeting and the matters arising.

Item 4 – Finance Report

18. The Director of Corporate Services (DCS) presented a paper reporting on the financial position at the end of month 9 (December 2019) and the key issues in the management accounts.
19. The Board **noted** the balance sheet that had been provided, further to an action from the November Board meeting.

20. The Board queried the reason for the variance reported on staff costs at year end and the accuracy of the variance reported on interest and charges at year end. The DCS agreed to look into this and provide a response to the Board later in the meeting.
21. The Board provided feedback and made recommendations for improving the Finance report to ensure a more strategic focus going forward.
22. At the end of December, a revenue underspend of £24,000 was reported.
23. The DCS advised that at the present time it was felt more likely that the organisation was looking at an underspend rather than an overspend at year end but better information would be available shortly after the re-forecast was complete; the results would be reported formally at the Board meeting on 26 March but before this date off agenda.
24. The Board **noted** the finance report.

Item 5 – Performance Report

25. Head Ombudsman, Steve Pearson, presented a report written by the DCS, on performance up to the end of December 2019.
26. The Board expressed concern that performance targets had not been achieved for the second consecutive month, despite being assured by the Executive that the forecast for closures had been attainable. The Board was disappointed to learn that January's performance would also not be in line with the delivery plan.
27. Board Members were particularly concerned that they had not been alerted sooner to the high, unexpected attrition rates that had been experienced in December and the impact this would have on performance, especially as there had been an opportunity to do so at December's RemCo meeting.
28. The Board stressed the need for improved communications from the Executive, particularly regarding matters impacting organisational risks, such as this, and the mitigating actions being taken to address them.
29. The Board sought to understand the impact of December's attrition on performance delivery in January and to the end of the year and sought assurance that as much mitigating action as possible was being undertaken to ensure that the delivery plan would be met.
30. In response, the Chief Ombudsman (CO) outlined the level of performance achieved by the leavers and the impact of their departure on the delivery plan, including the impact of the loss of those staff in the general enquiries team.
31. The Board was advised that the overall level of experience within the Investigator cohort had reduced as a result of the attrition and that this would have a negative impact on performance delivery in the short term, but that the GET had received an input of temporary resource which would recover the impact on the front end.
32. The Head Ombudsman advised the Board that some of the leavers, whilst serving their notice periods, had not progressed their cases in line with organisational expectations and this will impact negatively on timeliness.
33. The Head Ombudsman explained the mitigating actions that were being undertaken to address the risks resulting from the attrition. This included a deep dive of case holdings to ascertain whether delivery plan targets were likely to be achieved in the months ahead and a

review of workload management tools to ensure that staff were using them effectively to manage their caseload.

34. Additionally, 16 new starters joined the organisation in January and a further 18 would be joining in April.
35. The Board stated that an accurate reforecast of the delivery plan would be required should the deep dive conclude that the current delivery plan to the end of the year was unachievable. If this were to be the case, it should be communicated to the LSB and MoJ promptly.
36. Board members sought to understand the reasons why so many staff had left the organisation in December.
37. The DCS advised that one of the reasons was that several similar, local organisations had been running recruitment campaigns. The salaries offered by these organisations could not be matched by LeO.
38. The Board advised the Executive to monitor this and raise any concerns with the MoJ if LeO' pay rates were affecting staff retention.
39. The DCS confirmed that exit interviews were offered to all leavers and lessons are learned from the feedback provided. It was confirmed that all leavers in December had been offered an exit interview and most had accepted.
40. A Board Member suggested engaging with staff a couple of months after they have left the organisation to ask them to reflect on their exit interview and to seek further feedback from them which could be beneficial and provide further insight into their reasons for leaving. The Executive agreed to consider whether this was practicable.
41. The DCS reported on staff discussion circles that were being introduced to improve engagement with staff. A suggestion was put forward to consider setting up 'meet a NED' sessions to further staff engagement.
42. The DCS reminded Board of work that had been initiated at the front-end of the business process, which was the last part of LeO's business process to be subject to such a review. The Board was advised that one of the objectives of this work was to remove or minimise all points of delay in the overall process, and accordingly- and in order to support the aim of improving the customer journey time – as a consequence the movement of files would accelerate. It was agreed that the Board would need to receive information on this work and the Executive advised this would form part of the updated Road Map to Green which would set out the path to retain just one month's work in the Pre-Assessment Pool by March 2021.
43. Board sought confirmation that any improvements or changes to the front end would be rigorously modelled and accounted for within the updated Road Map and received confirmation that this was being done.

ACTION: The Executive to ensure the Board is briefed in relation to the revisions to the Road Map before 4 March.

ACTION: DCS to consider arranging a conference call with the Board to discuss the revisions to the Road Map To Green before it is presented at the Board meeting on 4 March.

44. The DCS also reported on a trial to test fast response closures of low complexity conveyancing cases being undertaken by a team of temporary casework staff.

45. Following a detailed discussion, the Board **noted** the update on performance.

Item 6 – Executive report

46. The Chief Ombudsman (CO) presented her Executive Report.

47. The CO reported on work being undertaken on the strategic gap analysis and operational resilience. The Board welcomed this work, particularly considering their concerns over current performance delivery.

48. A detailed discussion took place in which the CO and Board Members exchanged their thoughts and priorities for strengthening the capacity and capability of the senior team in order to address the organisation's current priorities.

49. The Chair reported that the Board would need to understand the priorities and proposals arising from this work and to understand its impact on organisational stability, but that it was for the CO to organise her team. In the interim, the Board would need to understand the performance levels that would be expected over time; the impact of any further attrition on performance; the impact of budget constraints arising from the COs structural proposals and the impact of any structural changes.

50. There was discussion of the poor results from the civil service survey and Board were keen to discuss this at the next meeting at the end of March in full

51. The DCS advised that revised Road Map To Green, due to be presented at the additional Board meeting on 4 March, would provide clarity on some of these points, adding that the document delivers a de-risked, realistic and achievable plan for future delivery and includes trackable, monthly targets.

52. The Board sought to gain a sense of what the revised Road Map To Green would be and it was advised that this would be covered in the conference call before the Board meeting on 4 March.

53. In light of the current demands placed on the HR Team, the Board suggested that consideration might be given to providing additional HR resource to support the transformation work required.

54. The CO reported on a dispute resolution conference she attended on 24 January.

55. The Board **noted** the executive report.

Item 7 – Update on the RemCo meeting held on 18 December 2019.

56. The Chair of RemCo updated the Board on the RemCo meeting held on 18 December.

57. The Committee had reviewed and commented on the draft People Plan; a revised document is to be presented for final review at the RemCo meeting on 11 March before being tabled for Board approval on 26 March.

58. The Committee is to review the policies that fall within its remit.

59. The Committee received a HR update; this included statistics on tenure and turnover in line with an action arising from the November Board meeting and information of recruitment activity. Further information about recruitment waves 4 and 5 had been requested. Committee Members were disappointed that the HR update had not alerted them to the high levels of attrition in December.

60. In line with an action arising from the Board Effectiveness Review 2018/19, the Committee considered the operation of the new structure. The Chair advised that, in line with the action, she had written to the Chair of ARAC to seek his views on assurance of the management of strategic risks and internal control. Additionally, she had spoken individually with the CO and DCS to seek their views on the new structure. The Committee met in private and after a detailed discussion, concluded that the combination of the CEO and CO roles had been positive, but the transition from one structure to the other had revealed some weakness in the level below the CO. The RemCo Chair reported the Committee's findings to the OLC Chair in a confidential letter.

61. The Board noted the **update** on the RemCo meeting.

Item 8 – Review of the operation of the new senior structure and assurance on the management of strategic risks and internal controls.

62. Board Members met in an extended private meeting prior to Board to consider the findings of the review of the operation of the new senior structure and assurance on the management of strategic risks and internal controls undertaken by RemCo with ARAC's input.

63. The CO and DCS were advised of the Board's views, which aligned to those of the CO and linked into the work the CO was currently undertaking on the strategic gap analysis and operational resilience reported earlier in discussions on the Executive report.

Item 9 – Draft KPIs 2020/21

64. The DCS presented a report setting out a new draft suite of KPIs for endorsement by the Board before being presented to the Board on 4 March for final approval.

65. In line with Board feedback, the proposed new suite of KPIs has been reduced from 28 to 8. Some of the previous KPIs will become internal PIs and be tracked and managed by the Management Team.

66. The Board provided detailed feedback on the new draft KPIs.

67. The Board discussed the current measure for unit cost and its relevance and fairness in determining value for money when used as a comparison to other Ombudsman services that measure their unit cost in different ways. The Board agreed that this should be discussed further with the MoJ and LSB along with proposals for alternative measures

ACTON: DCS to discuss the OLC's concerns about why unit cost is not a fair measure of value for money of an ombudsman service with the LSB and MoJ and propose alternative measures.

68. The DCS and the Business Planning Manager agreed to reflect on the feedback provided by the Board and update the suite of draft KPIs accordingly.

ACTION: The DCS and the Business Planning Manager to reflect on the feedback provided by the Board and update the suite of draft KPIs accordingly.

Item 10 – Quality Assurance Update

69. Head Ombudsmen, Siobhan Fennell and Mariette Hughes, presented a paper providing the Board with an assurance review of the Quality and Feedback (QAF) model and a general update on quality assurance for casework.

70. The Board was advised that the Internal Audit of casework compliance received a substantial rating.
71. A discussion took place about customer satisfaction / dissatisfaction, the link between the outcome of investigations and service complaints and the impact of delays during the investigation on overall customer satisfaction rates.
72. The Board was advised that all teams now operated under the QAF model. This is a staged model and as investigators demonstrate competence at key stages, they gain an increased level of autonomy to handle their cases. The Quality Committee moderates decisions made about investigator competency.
73. As a result of the QAF, fewer cases were now being sent back for further investigation.
74. A further review of QAF is planned in Q1.
75. A discussion took place about the implementation of the Individual Quality Report (IQR), a reporting tool drawing together key data assurance measures for investigators. The IQR applies a risk rating logic and supports improved management oversight of performance. Additionally, the IQR will highlight development needs for individuals and the organisation.
76. A suggestion was made that statistical evidence on IQRs could be provided to the Board in the form of a one-page scorecard.

ACTION: Head Ombudsman to consider whether a one-page scorecard providing statistical evidence on IQRs could be produced for Board information.

77. The Board was pleased to see the work being undertaken on quality assurance and the progress being made.
78. The Board **noted** the update on quality assurance.

Item 11 – Horizon Scanning

79. The Parliamentary and Policy Officer presented a paper setting out an update on developments in the external operating environment during December and January.
80. The Board discussed the recent Rip Off Britain episode that featured Ombudsman services and noted that LeO's powers to enforce its Ombudsman's decisions had been discussed positively.
81. The Board was advised that in May, the National Assembly for Wales is to become the Welsh Parliament.
82. The LSB has launched an Ongoing Competence call for evidence; this closes on 15 May.
83. The Board was advised of changes to the SRA's Compensation Fund regarding the hardship test.
84. The Board asked The Parliamentary and Policy Officer to continue to monitor and report on the unregulated legal sector.

ACTION: The Parliamentary and Policy Officer to monitor and report on the unregulated legal Sector.

85. The Board discussed anticipated changes at Ministerial level. The Parliamentary and Policy Officer agreed to notify the Board of any changes to the Chair of the Justice Select Committee.

ACTION: The Parliamentary and Policy Officer agreed to notify the Board of any changes to the Chair of the Justice Select Committee.

86. An increase in Employment Tribunals relating to disability issues was reported which might impact demand for LeO's service.

87. The Board **noted** the horizon scan.

Item 12 – Board Member Long Term Roles at LeO

88. The DCS presented a paper on Board Member Long Term Roles at LeO. He reported on discussions that had taken place on how the role as Board Lead on ED&I would be taken forward.

89. The DCS was asked to confirm who was responsible for dealing with whistleblowing complaints made about the OLC Chair.

ACTION: DCS to confirm who was responsible for dealing with whistleblowing complaints made about the OLC Chair.

90. The Board **noted** the paper on Board Member Long Term Roles at LeO.

Item 13 – Transparency Reports

91. The Board Secretary presented the quarter three transparency reports.

92. The Board queried the accuracy of information reported in the Board Member expenses report relating to the number of journeys made by two of the Board Members. The Board Secretary agreed to ask the Finance team to check and correct this information.

ACTION: Board Secretary to ask the Finance team to check and correct the information relating to the number of journeys made by two of the Board members.

93. Subject to the correction of this information and the updates to the Board Register of Interests requested earlier in the meeting, the Board **approved** the publication of the quarter 3 transparency reports.

ACTION: Board Secretary to publish the Q3 transparency reports.

Item 14 – Board paper redactions and non-disclosure report

94. The Board reviewed a paper setting out the redactions and items for non-disclosure proposed in respect of the January Board papers.

95. The Chair of ARAC requested a copy of the redaction and non-disclosure policy.

ACTION: Board Secretary to provide a copy of the redaction and non-disclosure policy to the Chair of ARAC.

96. 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.

Item 15 – Board Effectiveness

97. In line with a decision at the November Board meeting, Board effectiveness will be a standing agenda item at Board meetings.
98. The Board discussed the level of pressure that the organisation was under and its impact on the Executive, staff and the Board.
99. The Chair suggested that newer Board Members liaise with the new Chair if they wanted to continue with their quarterly telephone calls.
100. The Board discussed how issues with the WIFI earlier in the meeting had prevented them accessing their Board papers.
101. The Board acknowledged that at times discussions at the meeting had not followed the agenda.
102. The Board provided feedback on improvements to the style and content of Board papers.
103. The Board sought the views of the Executive to ascertain how constructive they had found the meeting and asked whether Board Members was sufficiently robust in their approach.
104. Alison Wedge reported that she had observed a Board that provided the right blend of challenge and support to the Executive.
105. Board Members asked the Executive to ensure that they were given more time to respond to requests where they were being asked to make decisions out of committee.

Item 16 – Any Other Business

106. The DCS reported back on queries raised by the Board earlier in the meeting, advising that the variance on staff costs was significantly related to pay for Pool Ombudsman and advised that a more detailed explanatory note on this would be issued to the Board after the meeting.
ACTION: DCS to circulate an explanatory note to the Board to clarify the pay variance reported at year end. This was circulated after the meeting.
107. The DCS reported that the interest receivable estimate had been under-forecast when the 2019/20 budget had been originally set although the staff who had prepared the estimate had now left the organisation and accordingly the reasons could not be ascertained.
108. Having consulted with HR colleagues, the DCS reported on other reasons for leaving that had been cited in exit interviews that had taken place in December.
109. The CO updated the Board on the progress being made regarding an independent review.
110. The Chair shared a letter received from the Chair of the LSB during the meeting in respect of the OLC's 2020/21 budget application and the Board discussed their response to the letter.
111. The Board reminded the Executive to share the results of future staff surveys with them before they are published internally. The Executive confirmed that the Civil Service Survey results are to be discussed on the agenda at the Board meeting on 26 March.
112. The DCS confirmed that performance delivery would not meet projected targets in February and March. A re-forecast is to be undertaken by the Executive and the Board, LSB and MoJ would be informed of the outcome.