

Minutes of the thirty first meeting of the

Office for Legal Complaints (OLC)

Monday 23 January 2012

11.30am – 15.45pm

Copthorne Hotel, Birmingham

Present:

Elizabeth France, Chair
Tony Foster, member
Professor Mary Seneviratne, member
Rosemary Carter, member
David Thomas, member
Margaret Doyle, member (via conference call)

In attendance:

Adam Sampson, Chief Ombudsman
Rob Hezel, Director of Finance and Business Services
Gary Garland, Deputy Chief Ombudsman
Liz Shepherd, Director of Operations
Anthony Rich, General Counsel, (item 9)
Cerys Jones, Ombudsman, (item 10)
Mike Forrest, Policy and Communications, (item 11)
Laura Wigan, Policy and Communications, (item 12)

Board Secretary:

Andy Taylor

Preliminary issues:

While there was not a lay majority of members present, papers had been sent to Brian Woods Scawen (member) for his consideration, in accordance with OLC procedures.

There were no declarations of interest.

Item 1 – Welcome and apologies

1. The Chair welcomed those in attendance.
2. Apologies were received from Brian Woods-Scawen

Item 2 – Minutes of previous meeting

3. The minutes of the meeting of 12 December 2011 were approved for publication.

ACTIONS

- The Secretary to publish the approved minutes of the meeting held on 12 December 2011.

Item 3 – Matters arising & action points

4. Members noted those items where action had been completed and that others were included as agenda items. No further comments were received.

Item 4 – Comments received regarding items presented for information.

5. The items presented for information were noted. No comments were received in advance of the meeting for circulation.
6. The Chief Ombudsman updated members following a meeting in the New Year with the Ministry of Justice. The meeting had focused on the activities and timetable for considering complaints about voluntary jurisdictions and claims management companies. Members noted the complexities involved in the timetable, which suggested any extension of jurisdiction was unlikely to take effect before January 2013.
7. Assurance was given that the executive would act as the project board and had already met to oversee the necessary work. The skills and resources needed were in place though there was scope for involving someone with experience of policy development of this kind.
8. It was agreed that a business case should be developed and presented at the next meeting. This should outline the principles for the proposed way forward in respect of new jurisdictions, including key working assumptions and details of proposed financial arrangements.
9. Recent difficulties in securing timely action by regulators in support of LeO; for example where a successor firm had opted to operate under a different regulator from the failed firm. This issue had been raised with the LSB and further discussions would take place in due course.
10. Members raised questions over sickness within the organisation and were advised that a full report was due at the next meeting as part of the quarterly human resource update. The issue would also be discussed at the RemCo meeting scheduled in March.
11. The Chief Ombudsman reported on the further consideration which had been given to publishing decisions, for example, contextualising complaints by providing some

information about the size of a firm by the number of clients it has. However, regulators do not currently collect these data and have given no indication that they would be obtained in the future.

12. Members noted the quarterly register of hospitality and approved this for publication.
13. Members noted the quarterly OLC member expenses report and approved this for publication subject to one arithmetic amendment.

ACTIONS

- Executive to present a business case at the next meeting outlining the principles for the proposed way forward in respect of new jurisdictions.
- The Secretary to publish the quarterly register of hospitality.
- The Secretary to publish the quarterly expenses report subject to the correction noted.

Item 5 – Corporate risk register

14. Members noted the revised corporate risk register and two new items. The Acting Chair of the Audit and Risk Committee confirmed that both the corporate and departmental risk registers had been presented to the audit and risk committee meeting held immediately prior to the OLC meeting.
15. The Director of Finance and Business Services reported that KPMG had recently completed an internal audit on the risk management process and this has been deemed “satisfactory”. However there were some suggestions in the draft report, a copy of which would be presented to the Audit and Risk Committee. Members agreed that a separate discussion topic relating to corporate risks should be included in the agenda for the strategic away day meeting in September 2012.

ACTIONS

- The Secretary to include a separate discussion topic relating to corporate risks in the agenda for the strategic away day meeting in September 2012.

Item 6 – Finance report

16. The Director of Finance and Business Services presented the finance report and members noted the continued underspend against budget. It was noted this was largely accounted for by an underspend on staffing and in recruitment and training.
17. An assurance was given that expenditure was being carefully monitored in order to ensure expenditure is in line with the revised budget prediction and not the original budget. The need to separate any expenditure on the possible extension of

jurisdictions was discussed. A revised budget for the 2012/13 financial year would be presented at the February meeting. This would be part of the updated 2012 – 15 strategy and 2012 – 13 business plans and following consideration of the responses received to the recent consultation exercise that closed on 18 January 2012.

18. The Acting Chair of the Audit and Risk Committee advised members that the committee had considered and recommended the rollover of the current internal audit contract with KPMG. A similar stance had been taken by the LSB who use the same internal auditor. It was confirmed the extension will be for a further two years and the contract would not go beyond one extension period. Members endorsed recommendation.

Item 7 –KPI report

19. Members noted that the volume of activity remains under that forecast. It was also noted there has been no evidence of any increase in demand during the last month of operation. Now that there were more than 12 months data, month on month comparisons and annualised patterns would be included in future reports.
20. The Deputy Chief Ombudsman reported that the proportion of cases referred to an Ombudsman remained high and the current work in progress within the team might, on current estimations, take three months to clear. To address the work in progress, three temporary Ombudsman Assistant roles have been advertised internally and it was hoped this would significantly assist in reducing the backlog once the new process was in place.
21. Members noted the report now included data in respect of quality measures within the Ombudsman team. However, it was acknowledged that this was the first draft of this data set and a more robust set of data would be available in May 2012 when the April information is reported.
22. The Director of Finance and Business Services was asked to arrange for a presentation detailing the background to the quality measures in the report at the April meeting.
23. Tony Foster advised members that a meeting was to take place on 30 January with the LSB to agree external KPIs. It was agreed that a target of closing 50% of cases within 90 days, while stretching, was achievable by the end of the financial year and should be proposed to the LSB at this meeting.

ACTIONS

- The Director of Finance and Business Services to arrange for a presentation setting out the background to the quality measures in the report at the April meeting

Item 8 – Presentation

24. As part of their continuing development, members received a presentation from Professor Cosmo Graham. The presentation included information in respect of recent research and recommendations.

Item 9 – Judicial review update

25. Members noted the report presented by the General Counsel and agreed that it was appropriate for him to continue his approach to customers and lawyers who were seeking to judicially review decisions taken.

Item 10 – Case content themes and trends

26. Members received an oral update from Cerys Jones regarding current themes and trends in respect of cases recently referred to Ombudsmen for decisions. It was noted there has been a recent trend in lawyers challenging reasons for Ombudsman discretion in accepting cases. These challenges were often made late in the business process. It was agreed that where discretion had been used to accept a case, it was important that details were adequately recorded within the case management system.

ACTIONS

- The Chief Ombudsman to ensure that where an Ombudsman has used discretion to accept a case, this is accurately recorded within the case at the time discretion is given.

Item 11 – Scheme rules and case fee consultation

27. It was recognised that this was an early draft of the proposed consultation document. Further work was necessary to show:
- those parts of the scheme rules that cannot be amended due to the requirements of the Legal Services Act 2007;
 - those parts of the scheme rules that require a statutory instrument; and
 - those which may be amended following consultation.
28. The principles behind the suggested changes should also be clearly stated in the revised draft and consideration given to the interface with any possible new jurisdictions.
29. Where adequate information is not held by the Legal Ombudsman about the impact of possible changes to the scheme rules (for example the time limits and third party complainants); the opportunity should be provided at the consultation stage for respondents to provide evidence and/or comment on these issues.

30. The Chair proposed that the executive should consult further with the OLC members originally involved with the drafting of the current scheme rules. The revised draft should give consideration to matters related to case fees.

ACTIONS

- The executive to redraft the consultation paper and consult with the OLC members originally involved in the drafting of the current scheme rules before submitting a revised paper to the February meeting.

Item 12 – Response to call for evidence on EU ADR/ODR directive

31. Following discussion, members asked for further work on this paper. As the deadline for submission was 31 January 2012 it was agreed that comment on a revised draft should be provided by email.

ACTIONS

- The Chief Ombudsman to arrange for the document to be redrafted and circulated to members to allow for additional feedback before responding by 31 January 2012.

Item 13 – Service complaint compensation awards

32. Members noted the paper outlining the proposed governance arrangements surrounding service complaint remedies, in particular compensation awards. The proposal was approved for wider publication.

ACTIONS

- The Head of Compliance to publish the arrangements for dealing with service complaint remedies.

Item 14 – Any other business

33. While agreeing that both the Executive and Non- executives should be represented at the BIOA meeting to be held on 17 and 18 May 2012, this was not the main conference and so attendance should be limited.
34. Members were reminded that a NED private session would be held immediately following the next meeting in February.
35. The next OLC meeting will be held on 20 February 2012 in the Cullinan Suite at the Copthorne Hotel, Paradise Circus. Birmingham, commencing at 11.30am.

Andy Taylor
Board Secretary
27 January 2012