

**Minutes of the Seventy-Third Meeting of the  
Office for Legal Complaints (OLC)**

**Tuesday 19<sup>th</sup> July 2016**

**09:30– 15:30 am**

**Legal Ombudsman, Birmingham**

**Present:**

Steve Green, Chair  
Caroline Coates, member  
Bernard Herdan, member  
Michael Kaltz, member  
Tony King, member  
Prof Philip Plowden, member  
Jane McCall, member

**In attendance:**

Nick Hawkins, Chief Executive  
Kathryn Stone OBE, Chief Legal Ombudsman  
Emma Cartwright, Head of Finance (item 1-5 only)  
Simon Tunnicliffe, Head of Operations (item 1-6, and 13 only)  
Andrew Gale, Head of Operational Insight & Engagement (items 1-6, 11 and 12 only)  
Marcus Passant, Head of HR (item 9 only)  
Rhiannon Walpole, External Affairs Manager (items 11 and 12 only)  
Sir Mike Pitt, Chair, Legal Services Board (items 6 and 7 only)  
Neil Buckley, Chief Executive, Legal Services Board (items 6 and 7 only)

**Apologies:**

None received

**Observing:**

Ross Moore, Staff Observer (all items except item 7)  
Richard Padley, Staff Observer (all items except item 7)

**Board Secretary:**

Helen White

**Preliminary issues:**

The Board meeting was quorate.

### **Item 1 – Welcome and apologies**

1. The Chair welcomed the two staff observers Ross Moore and Richard Padley to the meeting.
2. The Chair noted a potential declaration of interest from Prof Plowden regarding the Chief Executive's meeting with Sue Morrison from Derby University.

### **Item 2 - Minutes of the previous meeting**

3. The minutes of the meeting held on 14 June 2016 were approved as a true and accurate record of the meeting.

### **Item 3 - Matters arising and outstanding action points**

4. Members noted those items where actions had been completed and those that were included as agenda items.

### **Item 4 - Comments received regarding items presented for information**

5. The items presented for information were noted.
6. The Chief Executive reported that he and the OLC Chair had reviewed the governance review action plan to assess the achievement of actions with a completion date of 30 June. It was noted that the delegated sub-group would review the updated action plan before the end of July.
7. The Chief Executive also reported that all actions would either be signed off as completed by 30 September or would move to a 'business as usual' plan which would be reported on at either ARAC or the OLC Board.

### **Chief Executive's Report**

8. The Chief Executive reported that launch of the Tailored Review process had been delayed to September which meant the presentation of emerging findings would now take place at the October OLC Board.

#### **ACTION:**

- **The Board Secretary to schedule the Tailored Review emerging findings for the October OLC Board.**
9. The Board thanked the Executive for the constructive engagement across the organisation with the Tailored Review team and noted that the Board

Secretary would set up meetings for available Board members with the Tailored Review team.

10. Discussion took place on the planned Microsoft CRM update which was due to take place in August. To provide assurance on the impact of the update, the Chief Executive undertook to provide an update to Board members outside Committee.

**ACTION:**

- **The Chief Executive to update Board members on the planned Microsoft CRM update which was due to take place in August.**

11. The Head of Finance updated members on the procurement guidance being developed by the MoJ for the OLC. It was noted that the new Procurement Specialist would be liaising with the MoJ to seek clarification on the formal procedures. Once completed, the guidance would be shared with ARAC members.

**ACTION:**

- **The Head of Finance to share the finalised Procurement Guidance with ARAC members out of committee.**

12. Discussion took place on the ongoing infrastructure issues within the CRM system. It was noted that there would be a further update by the Head of IT at the October OLC Board meeting.

13. The Board agreed that the Conflict of Interest Policy be sponsored by RemCo.

**ACTION:**

- **The Board Secretary to allocate the Conflict of Interest Policy to the sponsorship of RemCo.**

### **Chief Legal Ombudsman's Report**

14. The Chief Legal Ombudsman thanked Tony King and Jane McCall for their support in the recruitment and selection for the Senior Ombudsman role. The Board approved the appointment of an internal candidate to the Senior Ombudsman role.

15. The Chief Legal Ombudsman withdrew the request for two main grade ombudsman. It was agreed that once the establishment process was completed, an updated request for ombudsman approval would be made out of committee.

**ACTION:**

- **The Chief Legal Ombudsman to submit an updated proposal for Board approval of ombudsman appointments once the process was complete.**

16. It was noted that the pool ombudsman process had been discussed at RemCo.
17. The Chief Legal Ombudsman reported that there had been a number of high calibre internal applications for the main grade ombudsman roles which provided potential for the creation of an internal ombudsman pool. The Chief Legal Ombudsman reported that this initiative would support the internal development of staff.
18. The Board supported the Chief Legal Ombudsman's wish to create more flex in the workforce to address the mismatch between the workforce and workload. It was noted that as per the Legal Services Act, Board approval would be needed for the appointment of any pool ombudsmen.
19. Some Board members expressed concern about the need to ensure that a member of an internal Ombudsman pool maintained an appropriate level of independence in their decision making.

**ACTION:**

- **The Chief Legal Ombudsman to continue to develop the proposal for an internal ombudsman pool and include in her proposal any safeguards required to ensure that members of the pool could maintain an appropriate level of independence.**

20. The Board noted that the Chief Ombudsman had withdrawn the proposal to include a £100 case fee element in the scheme rules review.
21. The Chief Legal Ombudsman updated the Board on a recent meeting held with the Legal Services Consumer Panel and made particular mention of her discussion with them on the concept of case progression.
22. It was agreed that the Chief Legal Ombudsman would circulate the updated Memorandum of Understanding with the Solicitors Regulation Authority for approval out of Board.

**ACTION:**

- **The Chief Legal Ombudsman to circulate the updated Memorandum of Understanding with the SRA for approval out of Board.**

**Finance Report**

23. Members noted the Finance Report and welcomed the inclusion of more detailed reports. It was requested that the Head of Finance include a cashflow forecast in future reports.

**ACTION:**

- **The Head of Finance to include a cashflow forecast in future Finance reports.**

**Register of Interests**

24. Members approved the Register of Interests for publication on the LeO website as part of the LeO publication scheme.

**ACTION:**

- **The Board Secretary to publish the Register of Interests on the LeO website.**

**Gifts and Hospitality**

25. Members approved the Gifts and Hospitality report for publication on the LeO website as part of the LeO publication scheme.

**ACTION:**

- **The Board Secretary to publish the Gifts and Hospitality report on the LeO website.**

**Board Member Expenses**

26. Members approved the Board Member expenses report for publication on the LeO website as part of the LeO publication scheme.

**ACTION:**

- **The Board Secretary to publish the Board Member Expenses report on the LeO website.**

**Item 5 – Annual Customer Satisfaction, Awareness and Stakeholder Survey Results**

27. Members noted the overview of findings from the annual Customer Satisfaction survey results.

28. It was noted that the legal jurisdiction complainant satisfaction results had shown a steady rise through the year and that the CMC satisfaction results were impressively high.

29. Discussion also took place on the awareness survey results which were disappointing in respect of the reduced levels of awareness and on the

Stakeholder Survey which showed disappointing headline results for 'Reputation' and 'Impact' key performance indicators.

30. It was agreed that the next Board update include a consolidated update on actions to address the various issues raised in the survey results and where relevant, how these might feed into the Business Plan.

**ACTION:**

- **The Head of Operational Insight and Engagement to include at the next Board meeting a consolidated update on actions to address the various issues raised in the survey results and where relevant, how these feed into the Business Plan.**

31. The Board noted and approved the inclusion of the relevant findings in the Annual Report and Accounts.

**ACTION:**

- **The Head of Operational Insight and Engagement to include the relevant findings in the Annual Report and Accounts.**

#### **Item 6 – Quarterly Performance Report**

32. Andy Gale reported that the Quarterly Performance Report now included Version 1 of a balanced scorecard to provide Board Members with an overview of the objectives and work being undertaken to improve performance.
33. Simon Tunncliffe reported that a short term increase in Assessment Centre staffing had resulted in an increase in cases being sent to the Resolution Centre.
34. Discussion took place on the increase in unallocated cases within the Resolution Centre. Simon Tunncliffe reported that the number had increased after interventions in February which had adversely impacted both quality and staff morale. It was noted the executive were now adopting a different approach to focus on the end-to-end business process.
35. Discussion took place on the increase in the Ombudsman work in progress. It was noted that whilst fixed term ombudsmen had been appointed to focus on the backlog, they were also providing advice and guidance which affected their ability to address the backlog. It was noted the newly appointed Senior Ombudsman would now refocus the ombudsman resource.
36. The OLC Chair questioned whether the increase in caseload indicated an increase in the number of cases being accepted. Andy Gale reported that demand was similar to the previous year; with a stable volume in the Legal jurisdiction and an increase within the CMC jurisdiction.

37. Discussion took place on the flexibility to move resources across the organisation. Simon Tunnicliffe reported that now the new Operational Management Team and Senior Ombudsman were in place, they could focus on resource planning during August and September.
38. Jane McCall questioned whether the executive could now start to predict the trajectory of performance improvement. The Chief Legal Ombudsman agreed to consider this point.
39. Discussion took place on the project to review the format of ombudsman decisions. It was noted that this would result in a reduction in the length of decisions. Philip Plowden stated that whilst a shorter report may be more user friendly for complainants, it may be necessary to conduct further market testing on how this would work for the profession.
40. Andy Gale was requested to add the Ombudsman Decision project to the balanced scorecard.
41. Members noted that whilst issues remained with backlogs, a number of initiatives were in place. The executive were requested to include as an appendix to the Chief Legal Ombudsman's September report, an update on the measures being taken to address the backlogs; the impact of these measures with the predicted trajectory of improvement.

**ACTION:**

- **The Chief Legal Ombudsman to include an appendix in her September report providing an update on the measures being taken to address the backlogs together with the impact of these measures and the predicted trajectory of improvement.**
42. Simon Tunnicliffe reported that following the success of the project held within the CMC jurisdiction on bulk complaints, work was being undertaken to look at lessons learned and possible improvements which could be made within the Legal jurisdiction.
43. Discussion took place on the number of active investigators and their targets. For better clarity, Simon Tunnicliffe was requested to include information on how many investigators were not classed as 'active' with reasons.
44. Members were pleased to note that in the last quarter, despite the issues with timeliness, the OLC achieved the highest ever levels of satisfaction at initial contact and investigation stages. Kathryn Stone reported that this supported the research undertaken by ESRO.
45. Andy Gale reported that in the vast majority of cases, positive feedback was received when consumers received good levels of interaction with the assessors and investigators.

46. It was agreed that the Chief Legal Ombudsman would propose initial targets for the second half of the year in respect of the new surveys.

**ACTION:**

- **The Chief Legal Ombudsman to propose initial targets for the new surveys at the September Board meeting.**

47. Internal Quality Reviews: The OLC Chair noted that as agreed at the last OLC Board Meeting, Tony King would be the Board Member observer in the internal quality review process and would provide Board assurance that the quality reviews were meaningful, effective and robust.

48. The OLC Chair noted that the quality reviews provided evidence that quality had suffered during the last quarter. Members noted the themes emerging from the customer survey and quality reviews and the work being undertaken by the executive to address the issues.

49. Members asked Andy Gale to pass on their thanks to the team for the effort put into the customer satisfaction survey.

**Item 7 – LSB Presentation**

50. The OLC Chair thanked Sir Mike Pitt and Neil Buckley for joining the meeting and observing during the performance discussion to provide an insight into the Board's style of oversight and holding the executive to account.

51. Sir Mike Pitt outlined the work being undertaken by the Legal Services Board to evaluate the market place for legal services. He reported that this work had shown important findings.

52. Discussion took place on the ability of the OLC to use their data to influence the market. It was noted that social policy research was an area the OLC executive were reviewing with the aim of producing bite-size chunks of research on key areas, such as the surge in conveyancing. It was agreed that, in pursuing this aspect of the OLC LeO business plan, full account would be taken of the LSB's views.

53. Discussion took place on the three way relationship between the OLC, MoJ and LSB and how the MoJ tailored review process may potentially impact upon the current governance structure.

54. Sir Mike Pitt confirmed the LSB's support for a balanced scorecard approach to performance management but commented that timeliness remained of concern to his Board.

55. Discussion took place on the Section 120 reporting requirements, which it was noted, the LSB would look to review once they felt that performance had improved.



56. The OLC Chair thanked Sir Mike Pitt and Neil Buckley for taking time to attend and update the OLC Board.

### **Item 8 – RemCo Update**

57. Bernard Herdan, RemCo Chair, provided an update on the RemCo meeting held on 28 June 2016. It was noted that the June RemCo meeting was attended by two Staff Council representatives.

58. Bernard Herdan reported that the Committee had worked on the HR Balanced Scorecard, recruitment and the Chief Executive's financial delegations as Accounting Officer, for which formal confirmation on the AO's spending controls had not yet been received from the MoJ.

59. It was noted that RemCo had discussed Learning and Development, long-term sickness and the related insurance policy.

60. Bernard Herdan reported that a potential future staff bonus scheme was also discussed.

61. The OLC Chair thanked the RemCo Chair for the informative update on the range of areas being reviewed by RemCo colleagues.

### **Item 9 – Human Resources Update**

62. Marcus Passant joined the meeting to update members on key activities being undertaken within the HR team.

63. He reported that recruitment had successfully taken place for a Director of Corporate Services, Senior HR Advisor and Procurement Officer; all of which were key actions highlighted in the governance review.

64. Discussion took place on the introduction of a management development programme. It was noted that scoping was being undertaken for the delivery of the senior management training element of the programme.

65. Marcus Passant updated members on the recent Staff Survey. It was noted that more work was needed on the strategic alignment data within the HR Balanced Scorecard to ensure that individuals were connected to the organisation's long term aims.

66. The OLC Chair noted that the recent staff surveys had shown a growing recognition of the credibility of the new senior management team.

67. It was noted that the organisation would in future be taking part in the Civil Service wide People Survey.

68. The OLC Chair thanked the Head of HR for his report and update.

### **Item 10 – ARAC Update**

69. Michael Kaltz, ARAC Chair, provided an update on the ARAC meeting held on 7 July 2016.

70. He reported that a private session was held with the internal auditors without any executive presence and that the information provided by the internal auditors reassured the ARAC members.

71. Michael Kaltz reported that the main focus had been on data handling incidents and ICO guidance. It was noted that an internal audit had been conducted on Data Protection and the draft report was with the executive for management response.

72. It was noted that ARAC had discussed the business combined insurance and that an update would be provided by the Head of Finance at the October ARAC meeting.

73. Discussion had been held at ARAC on the corporate risk register which was still an operational document rather than strategic. The executive would present the updated corporate risk register at the October ARAC meeting.

74. The OLC Chair thanked the ARAC Chair for the overview of the areas of focus for ARAC colleagues.

### **Item 11 – Welsh Language Scheme Annual Report**

75. Discussion took place on initiatives to raise the organisation's profile within Wales. The executive were asked to come back with a proportionate proposal on how to address this.

#### **ACTION:**

- **The Chief Legal Ombudsman to report back on a proportionate proposal to raise the organisation's profile within Wales.**

76. Members approved the submission of the Welsh Language Annual Report to the Welsh Language Commissioner.

#### **ACTION:**

- **The External Affairs Manager to submit the Welsh Language Annual Report to the Welsh Language Commissioner.**

### **Item 12 – ADR Update**

77. Kathryn Stone introduced the item and updated members on the internal and external factors affecting a decision on whether to become an ADR entity.

78. Kathryn Stone updated members on feedback she had received regarding ADR from the profession when attending external conferences and events.

79. It was noted that should the OLC choose to become an ADR entity, it would be necessary to make key operational changes to the CRM system.

80. It was noted that any decision on ADR needed to be taken in the context of the wider business priorities and the changing landscape.

81. The Board considered all the factors and options and in the light of:

- the risks which would be carried by the OLC and, to some extent, the profession in order to meet the requirements of our Accrediting Body;
- the risks which the impact of implementation might present for performance improvement;
- the risks involved in work which would be required to make changes to the CRM system; and
- the likely resource requirements of compiling a revised proposal and implementing a revised scheme;
- agreed to defer the decision to summer 2017.

82. In arriving at this decision, the Board noted the fact that, within the current arrangements, it remains possible for a complainant who has been unable to resolve their complaint through an accredited ADR provider can still be accepted by LeO.

83. The Board also recognised the desirability of taking a final decision in the light of greater certainty of understanding of the 'post-Brexit' regulatory landscape.

84. In the course of this discussion it was noted that the recently issued CMA report raised some pertinent questions for the OLC. The External Affairs Manager undertook to circulate the draft response to the CMA report to all Board Members.

**ACTION:**

- **The External Affairs Manager to circulate the draft response to the CMA report to all Board Members.**

**Item 13 – CMC Budget (*Lord Chancellors Fee Requirements for 2017/18*)**

85. Simon Tunnicliffe introduced the paper. He noted that it was difficult to forecast for the 2017/18 financial year based on this year's data.

86. Discussion took place on the predictions on future case volumes. It was noted that whilst the regulator had predicted a fall in volumes, this was not comparable with the volumes for the existing year.
87. The Board agreed that the forecast budget be submitted to the Ministry of Justice alongside a full commentary of the last year.

#### **Item 14 – Any Other Business**

88. Publishing Decisions: The OLC Chair noted that the fast track process for category one publication had been delegated to the OLC Category One Publications Committee. He reported that the timeline for the recent potential Category 1 publication meant it was possible for it to be handled at the full OLC Board meeting. He noted that briefing papers had been circulated for review by members in advance of the OLC Board meeting.
89. Following discussion, the Board were supportive of the proposal to proceed with the category one publication with some minor amendments. The item was then adjourned and delegated to members of the new Category 1 Decisions Committee for final consideration.

#### **ACTION:**

- **The Chief Legal Ombudsman to update the proposal on the Category One publication and present to the new Category 1 Committee for final consideration.**

90. 2017 Board Dates: The Board Secretary was asked to circulate the proposed 2017 Board Dates to Board Members for comment.

#### **ACTION:**

- **The Board Secretary to circulate the proposed 2017 Board dates to Board Members for comment.**

91. September Strategy Session: It was noted that the September OLC Board would comprise routine business in the morning followed by a market focussed strategy session in the afternoon.

92. No other business was raised. The Chair declared the meeting closed.

#### **Next meeting**

93. The next OLC meeting would be held on 7 September in Birmingham.