

Minutes of the 129th Meeting of the Office for Legal Complaints (OLC)

Wednesday 18 October 2023

<p>Present : Elisabeth Davies, Chair Patricia Tueje Martin Spencer Jane Martin Dale Simon Alison Sansome</p> <p>Apologies : Rachel Cerfontyne Hari Punchihewa</p> <p>Minutes: Kay Kershaw, Board Governance Manager</p>	<p>In Attendance: Paul McFadden, Chief Ombudsman Steve Pearson, Deputy Chief Ombudsman Blessing Simango, Head of Finance, Procurement and ICT Laura Stroppolo, Head of Head of Programme Management and Assurance Debra Wright, Head of Head of People Strategy and Services David Peckham, Head of Operations, Transformation and Business Intelligence Stephanie Godbold, Head of Communication, Engagement and Impact Treena Moseley, Operations Manager (item 3) Susan Bradford, Independent Service Complaint’s Adjudicator (item 4) Safa Douglas, Executive Support Assistant (items 4 to 14), observing</p>
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Item 1 – Welcome, Apologies and Declarations of Interest.

1. Attendees were welcomed to the meeting by the Chair.
2. Board members attended a pre-Board meeting with the REACH Network Chairs.
3. Apologies were noted.
4. The meeting was quorate.
5. There were no declarations of interest reported.
6. Further to the discussions on Board effectiveness at September’s Board workshop and recognising the shared commitment to elevating Board meetings to occupy more strategic and less operational space, the agenda for this transitional Board meeting prioritised strategic discussions and decision making. Board feedback would be sought throughout the meeting to assist the Executive in developing more strategically focussed Board papers and integrated performance reporting.
7. Board members were invited to attend a lunchtime question and answer session led by the Women’s Network in recognition of World Menopause Day.

Item 2 – 2024/25 Draft Budget, Budget Acceptance Criteria, Business Plan and Strategy for consultation.

8. The Chief Ombudsman (CO) presented an overview of the draft 2024/25 Budget, Budget Acceptance Criteria (BAC), Business Plan and Strategy, drawing the Board’s attention to the concise nature of the documents; the changes that had been made in line with previous Board feedback; the combined Strategy and the Business Plan consultation questions; and the focus given to the BAC by the Legal Services Board (LSB) when considering the OLC’s budget application.
9. The Board was invited to provide feedback on the documents, particularly whether the tone was right; whether they captured the right balance of cautious optimism versus the right level of ambition; whether they captured the right level of detail to enable external stakeholders to understand the proposed inflationary Budget, Business Plan and the first year of the strategy; and, whether there was cohesion between the Strategy and Business Plan.
10. The following feedback was provided on the 2024/27 Strategy document: 2024/25 Budget and Business Plan documents:
 - 2024/27 Strategy document: Stronger reference to LeO’s intent to exploit Artificial Intelligence (AI) to deliver its objectives was required.
 - 2024/27 Strategy document: Stronger articulation of LeO’s intent to work more collaboratively with the Regulators was required.
 - 2024/25 Budget and Business Plan document: A clearer explanation of the data relating to demand in the table on page four of the Business Plan was required; this could be achieved either using asterisks or additional narrative.
 - 2024/25 Budget and Business Plan document: Key data to strengthen and support the points made on pages eight to thirteen was required.

ACTION: The Executive to ensure that the 2024/27 Strategy document was updated to strengthen the reference to AI and the intent to work more collaboratively with the Regulators.

ACTION: The Executive to ensure that the 2024/25 Budget and Business Plan documents were updated to ensure a clearer explanation of the data relating to demand in the table on page four, and to include key data to strengthen the messaging around the points made on page ten.

11. Responding to feedback on the need for a clearer explanation of the data relating to demand, the Chair of the Performance Sub-Group (PSG) reported that forecasting demand for the 2024/25 Business plan had been challenging. This was because LeO was currently experiencing an increase in demand and the drivers for this were not yet fully known.
12. It was clear that the increase in demand had negated some of the impact of the Scheme Rules changes which, when coupled with attrition and its impact on performance, meant that the year-end position for 2023/24 was changing. The size of the Pre-Assessment Pool (PAP) was now expected to be higher than originally forecast and it was anticipated that steady state, with a PAP size of around 800, would not now be achieved until September 2025.
13. The PSG had met in September 2023 to consider the impact of this increase in demand on performance in the second half of 2023/24, what it would mean for the year-end position, and what a sustained increase in demand might mean for the 2024/25 Business Plan.

14. The PSG has recommended the introduction of two new assumptions: overtime and secondment. The 2024/25 Budget included provision for this; overtime would be used proactively to maintain levels of productivity and secondment would be used to fill gaps created by attrition and provide internal career progression moves.
15. The CO confirmed that the 2024/25 Business Plan and BAC stated that the current increased level of demand would be absorbed with existing resource and that the period for anticipated performance improvement had been extended to reflect this. Recognising that there was a limit to the extent to which LeO could continue to absorb sustained increases in demand, consideration may need to be given to submitting an in-year budget request to the LSB for additional resource.
16. The Board discussed the implications of further attrition and increasing levels of demand on the assumptions and forecasts underpinning the 2024/25 Business Plan, questioning whether the assumptions for attrition were realistic; whether there was any optimism bias; whether the forecast for attrition should be higher to take account of learning from previous years; whether absorbing the increased levels of demand with existing resource was the right approach, particularly as any sustained increase in attrition and demand might have adverse implications for the delivery of Business Plan objectives linked to learning and insight; whether additional resource should be sought as part of the 2024/25 Budget submission to mitigate the risks associated with further attrition and increased demand.
17. Acknowledging that approval of an in-year budget request for additional resource could not be guaranteed, it was suggested that improvement trajectories were updated to take account of different scenarios to reflect the potential impact of further attrition and increased demand on performance.
18. In response to the points made, the CO **agreed** that the Business Plan would be updated to better articulate the impact of attrition and increasing demand on performance and the delivery of Business Plan objectives, particularly learning and insight .
ACTION: The Executive to ensure that the 2024/25 Business Plan was updated to better articulate the impact of attrition and increasing demand on performance and the delivery Business Plan objectives, particularly learning and insight.
19. The Board was content with the information included in the BAC and no changes were required.
20. The Board was advised that LeO's website would be used to host the Strategy and Business Plan consultation.
21. Welcoming the integrated Strategy and the Business Plan consultation questions, Board members provided feedback on the Strategy and the Business Plan consultation documents:
 - Ensure that it was clear in the consultation document when the three-year Strategy period was being considered, as distinct to the one-year Business Plan period.
 - The Consultation questions should be more direct and fewer in number; this could be achieved by merging some of the questions.**ACTION: The Executive to ensure that it was clear in the consultation document when the three-year Strategy period was being considered, rather than the one-year Business Plan period and to ensure that the consultation questions were more direct and fewer in number.**

22. Following discussion, the Board:

- **Conditionally approved** the 2024/27 Strategy subject to ensuing clarity in the consultation document on when the three-year Strategy period was being considered, as distinct to the one-year Business Plan period; strengthening the consultation questions and reducing their number; strengthening the reference to AI and the intent to work more collaboratively with the Regulators.
- **Conditionally approved** the 2024/25 Budget and Business Plan, subject to including a clearer explanation of the data relating to demand in the table on page four; better articulating the impact of attrition and increasing demand on performance and the delivery Business Plan objectives, particularly learning and insight; and, including key data to strengthen the messaging around the points made on page ten.
- **Conditionally approved** the 2024/25 BAC, recognising that any changes made to the 2024/27 Strategy and 2024/25 Business Plan would be incorporated into the BAC.

23. The Board delegated authority to the OLC Chair to approve the final 2024/27 Strategy and 2024/25 Budget and Business Plan for consultation.

Item 3 – Customer Journey Walk Through

24. An overview of the key stages and interaction points customers could experience while their complaints were being considered by LeO was presented to the Board. Illustrative customer satisfaction feedback and examples of correspondence were provided for the various stages of the LeO's process.

25. In response to questions raised, the Board was advised that:

- Case progression remains a common theme highlighted in customer satisfaction surveys. Historically, this was driven by the time customers spent waiting for an investigation. Wait times in the Pre-Assessment Pool (PAP) had since been reduced and case progression was now on an improving trajectory. Once steady state had been achieved, the wait time in the PAP would be approximately 30 days before an investigation commenced.
- Work was underway to understand the 'blockers' that prevented cases being progressed and what could be done to resolve them.
- Having learnt from and responded to customer feedback, correspondence is issued to customers to explain the reasons for any delays in case progression to help manage their expectations.

26. Board members found the walk through the customer journey helpful and insightful, commenting on how responsive and focused LeO was on its customers and how committed it was to continuous improvement.

Item 4 – Independent Service Complaint Adjudicator's Interim Report

27. The Service Complaint Adjudicator (SCA) presented their interim report.

28. In discussion, the following key points were drawn to the Board's attention:

- Three of the five service complaints reviewed by the SCA had been underpinned by a significant disagreement on the part of the complainant with the Ombudsman's decision on the lawyer complaint. In two of these cases, the complainants had sought to have their lawyer complaint re-opened, despite being advised that this was not within the SCA's remit.
- In four of the five service complaints reviewed by the SCA the complainants had sought a review of the compensation that had been offered at earlier stages of the service complaint process.
- One of the service complaints reviewed by the SCA related to a failure to make reasonable adjustments in a case that had been investigated approximately 12 months ago. In response to this, prompt action had been taken to implement improvements to the way requests for reasonable adjustments were dealt with.
- Additional resource had been drafted into the Service Complaints Team; this was having a positive impact on reducing the number of service complaints awaiting review and the quality of LeO's service complaints process.
- A quality assurance framework for the service complaints process was being developed.

29. The Board **noted** the SCA's interim report, welcoming the progress that had been made by LeO in responding to service complaints, clearing the number of cases awaiting review and implementing the recommendations that had been made by the SCA to further improve customer service.

30. The Deputy Chief Ombudsman reported on plans to revise LeO's Service Complaint process by the end of 2024/25 in line with a recommendation made by Internal Auditors. Working with the SCA, consideration would be given to streamlining the process to ensure that it was more proportionate and efficient.

Item 5 – Executive Report

31. The Executive Report was presented by the Chief Ombudsman (CO).

32. In discussion, the following points were made:

- Members of the Executive would be meeting with the ARAC Chair to discuss additional improvements to risk management and risk reporting. Consideration would be given to potential enhancements to the risk architecture to accommodate a clearer focus on the desired risk ranges and to a clearer distinction between risk actions and internal audit actions.
- The Executive would be considering better ways of articulating Strategic Risks and Strategic Issues, their root causes, consequences and inter-relationships.
- The Executive continued to assess future accommodation options for the Birmingham office in discussion with the MoJ and Government Property Agency; the Board would be kept updated on developments and any associated risks.

33. Board members provided feedback on the Executive report to assist with the move towards integrated performance reporting. The following points were made:

- The Executive report provided a helpful overview of the key points for the Board to consider; it helped Board members to think strategically and it provided a valuable opportunity for the Board to hear directly from the Chief Ombudsman.
- There was value in integrating the Executive report into performance reporting. This could be achieved by including it as a summary / introduction to the performance reporting sections.
- There were differing views on the length and level of detail to be included in the Executive report; if it were to stay the same length, some of the detail in the performance reports would need to be reduced to avoid / minimise any duplication.
- Consideration could be given to integrating risk reporting into the Executive report.

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

Item 6 – Moving towards an integrated performance dashboard: Q2 performance reports

Operational Performance

35. Operational performance continued to make progress with improvements in timeliness, PAP reduction and wait times and post operational challenges resulting from Scheme Rules changes.
35. Case closures had varied against ranges in the first half of 2023/24; this was due to increasing demand, higher than expected attrition and the impact of Scheme Rules changes on the flow of cases through the business process, particularly the Early Resolutions Team.
36. To mitigate this, the Executive had implemented a Q1 recovery plan, that had been reviewed at mid-year. The positive impact of mitigations in Q2 had increased the flow of cases through to Early Resolution and this was expected to increase case closures in Q3. Case closures were expected to be within forecast range by the end of 2023/24.
37. The Board welcomed the mid-year recovery plan but was mindful that it was not a long-term solution to addressing the impact of attrition on performance, which continued to be a significant risk to the organisation.
38. The Board **noted** the update on Operational Performance.

Quality and Service

39. Overall quality metrics and customer satisfaction with the outcome remained below target but with a broadly consistent upward trajectory compared to Q1.
40. The Board had been pleased to note that there had been no instances where a failed quality review had led to an ombudsman decision or agreed outcome being withdrawn and that the learning from quality reviews was being fed back into the organisation to ensure continuous improvement, but there was a desire to see further improvement in the overall quality metrics in the future.
41. The Board **noted** the update on Quality and Service.

Finance

42. The Board had been pleased to note that the budget was in a stable position and was being managed well.
43. The outturn forecast at the end of September was for an underspend of £89k; this was 0.53% of the current budget and within MoJ tolerance levels. To manage the budget and ensure that timely mitigating actions could be taken to address any variance, monthly financial review meetings took place with budget holders; dedicated Executive Team finance meetings took place to review capital and operational forecasts; and, Strategic and Business Unit financial risks were tracked and carefully managed.
44. Attrition continued to be a key financial risk and mitigating actions were in place to utilise the associated underspend. A pipeline of possible mitigating actions had been identified and would be implemented at an appropriate time in the financial year to manage any future increase in the underspend if required; this would help to ensure that the budget remained within MoJ tolerance levels at year end.
45. The MoJ had confirmed that technical checks on the proposed 4.5% pay award for 2023/24 had been completed and that Ministerial approval was now awaited.
46. The Board noted the update on Finance.

People

47. Investigator attrition and overall attrition had increased in September; this was largely due to factors outside of LeO's control associated with a buoyant external market and better pay and conditions being offered by LeO's competitors.
48. Governance constraints limited what LeO could do to tackle attrition.
49. A multifaceted approach was being taken to ensure that all was being done within LeO's control to tackle attrition and its impact on performance. This included a pay and benefits benchmarking exercise, the outcome of which would provide evidence for future discussions on pay and benefits with stakeholders; exploring alternative ways of enhancing LeO's Employee Value Proposition (EVP) through non-pay benefits; campaigns to raise staff awareness of new and existing non-pay benefits; and, promoting learning and development and secondment opportunities to staff.
50. Considering this, and the continuous effort that was being made by LeO to tackle attrition, Board members questioned what more could be done realistically to mitigate attrition and its impact on performance.
51. A strategic discussion on alternative ways of addressing this critical issue was recommended to enable the Board to consider the feasibility and scope for further potential mitigating actions, which could take into consideration ways of improving LeO's flexibility offer; making better use of technology; aligning the investigator role with similar roles offered by other Ombudsman Schemes; introducing an investigator pool; and extending the hub strategy to make better use of the hubs.
52. Noting that market information would have to be obtained to support strategic discussions on extending the hub strategy, it was **agreed** that the OLC Chair and CO would give further consideration to when the best time would be for the Board to have this strategic discussion to consider alternative ways of tackling attrition.

ACTION: The OLC Chair and CO to consider when the best time would be for the Board to have a strategic discussion on additional ways of tackling attrition.

53. Board members recommended that there may be value in promoting LeO's diversity as part of its Recruitment and Retention Strategy and that consideration could be given to exploring what made longer serving employees stay at LeO and what might have made leavers stay; the lessons learned from this could then be incorporated into the Recruitment and Retention Strategy.
54. The Board **noted** the update on People.
55. Board members provided feedback on the performance dashboard reports to assist with the move towards integrated performance reporting. The following points were made:
- The integrated performance report should follow five principles: Where we are now; why we are where we are; what is being done to address this; where will this mean we will get to; what is the overall confidence level and what assurance the Board should that from this. Assurance and confidence levels should be related to risks.
 - The integrated performance report should align with the Agreed Data Set where possible; report by exception rather than routinely drilling down into information; seek to minimise the duplication of information that was already included in the Executive report.
 - The report on operational performance should focus on continuous improvement; the number of graphs should be reduced; and it should be no more four slides long.
 - The narrative included in the Quality and Service report was more helpful than the graphs; the 'points for Board to note' section was particularly helpful. The number of graphs should be reduced.
 - The report on finance should focus on slides 2 and 6; these slides provided the right level of information when the budget was in a stable position but more detailed information would be required by way of exception reporting if there were any issues with the budget.
 - The information reported in slide 3 of the People report was helpful, particularly as it highlighted key points relating to attrition which was a key area of strategic focus for the Board. The graphs were less helpful.

Item 7 – Update on the Performance Sub-Group meeting held on 18 September 2023

56. The Chair of the Performance Sub-Group (PSG) updated the Board on discussions that had taken place at its meeting on 18 September 2023. The focus of this meeting had been on reviewing and testing the assumptions and trajectories underpinning the 2024/25 Business Plan.
57. The best, worst and likely case scenarios for key assumptions including recruitment, demand, attrition, Scheme Rules changes, maternity leave, sickness absence levels, productivity, reasonable adjustments, re-allocations, secondment, overtime the application of contingency had been tested and consideration had been given to eliminating any optimism bias.

58. In response to a question, the Board was advised that the assumptions being tracked as worst-case scenarios in 2023/24 had been adjusted and included in the 2024/25 Business Plan as the likely-case scenario to eliminate any optimism bias.
59. The PSG was satisfied that the assumptions underpinning the 2024/25 Business Plan were as accurate as they could be and that each assumption was as objective and realistic as it could be considering the increases being seen in demand and attrition.
60. The Board **noted** the update on the Performance Sub-Group meeting held on 18 September 2023

Item 8 –Update on the ARAC Meeting held on 2 October 2023

61. The ARAC meeting on 2 October 2023 had been a shortened because of unexpected quoracy issues and some agenda items, including a deep dive of the case management and process had been deferred to the next meeting.
62. ARAC had considered reports on Risk Assurance; Financial Governance; 2022/23 Annual Report and Accounts Lessons Learned; Internal Audit; Financial Governance; 2024/25 Budget Setting Assurance Principles; and Attestations and Single Tenders. It had been necessary to defer some agenda items to the next meeting in January 2024 because the meeting became inquorate part way through.
63. The Committee had been pleased to note that Internal Audits of Cyber Security and Management Reporting had received a substantial audit opinion.
64. Discussion on risk had focussed on the static nature of risk scoring, particularly those relating to Strategic Issues and Strategic Risks relating to performance and PAP. There was a desire for the focus on risk scoring to be within a tolerance range and, as this was not currently within LeO's risk framework, the CO and Head of Performance Management and Assurance had arranged to meet with the ARAC Chair to discuss how this could be accommodated.
65. The Executive was also considering ways to better articulate Strategic Issues and Strategic Risks, their root causes and consequences and improve risk reporting to Board and ARAC.
66. The Board **noted** the update on the ARAC meeting held on 2 October 2023.

Item 9 – 2022/23 Annual Report and Accounts: Lessons Learned

67. A report on the lessons learned from the 2022/23 Annual Report and Accounts process was presented by the Head of Programme Management and Assurance. The Board's attention was drawn to the following key points:
 - Overall, the 2022/23 Annual Report and Accounts process had gone well. A rigorous process had been implemented by the Executive which ensured that key data and contributions were submitted accurately and on time to support the drafting and preparation of the Annual Report and Accounts.
 - The early steer on key messaging provided at the Board workshop in February had been beneficial and had aided the drafting of the Annual Report and Accounts.
 - Concerned by the implications of last-minute queries that had been received from External Auditors after they had provided assurance to ARAC on the 2022/23 Annual

Report and Accounts and after the subsequent approval of the Board, the ARAC Chair and CO had met with External Auditors to discuss how this could be prevented in the future.

- To reduce the number of queries relating to the front-end report, snapshots of raw data would be extracted and shared with Auditors as early as possible to support the 2023/24 Annual Report and Accounts process.
- Improvements were to be implemented to ensure closer working relations between the Executive and External Auditors for the 2023/24 Annual Report and Accounts process; this included an early planning meeting in December when key dates and requirements would be identified.
- ARAC had considered the lessons learned from the 2022/23 Annual Report and Accounts process at its meeting on 2 October 2023 and put forward a suggestion for an outline of the key data, including financials, to be created so that the information could be shared with External Auditors for early review once it was available; the Head of Finance and External Auditors would be considering this at their planning meeting in December.

68. The implementation of the lessons learned would help to ensure a smoother process for the 2023/24 Annual Report and Accounts

69. The Board **noted** the lessons learned from the 2022/23 Annual Report and Accounts.

Item 10 – Previous Minutes; Matters Arising and Previous Actions

70. The minutes of the OLC Board meeting held on 20 July 2023 were **approved** for accuracy and **approved** for publication.

71. The minutes of the OLC ARAC meeting held on 15 June 2023 were **approved** for publication.

ACTION: The Board Governance Manager to arrange for the minutes of the OLC Board meeting held on 20 July 2023 and the minutes of the OLC ARAC meeting held on 15 June 2023 to be published.

72. Board **noted** the update on the actions from previous Board meetings.

73. The Board **ratified** a unanimous decision made out of committee to appoint 3 Level One Ombudsmen in October.

Item 11 – Transparency Reporting

74. The Board **approved** the Q2 Board member Register of Interests for publication.

75. The Board **approved** the Q2 Ombudsman and Senior Manager Register of Interests for publication.

76. The Board **approved** the Q2 Board Member and Senior Manager Expenses Report for publication.

77. The Board **approved** the Gifts and Hospitality Register for publication.

78. Considering the items of low value that had been declared on the Gifts and Hospitality Register, the Head of Finance **agreed** to review the Gifts and Hospitality Policy and what

should be the minimum value of gifts and hospitality reported on the Gifts and Hospitality Register in the future.

ACTION: The Head of Finance to review the Gifts and Hospitality Policy and what should be the minimum value of gifts and hospitality reported on the Gifts and Hospitality Register in the future.

ACTION: The Board Governance Manager to arrange for the Q2 Transparency Reports to be published.

Item 12 - Board Paper Redactions and Non-Disclosure Report.

79. The Board **noted** and **approved** the items identified for redaction and non-disclosure in the October Board pack.

ACTION: The Board Governance Manager to arrange for the October Board papers to be published in line with the redactions and items for non-disclosure approved by the Board.

Item 13 – Board Effectiveness

80. In line with the Board's commitment to improving Board effectiveness and discussions that had taken place at the Board workshop in September, and Alison Sansome and Paul McFadden had been appointed strategy champions for this meeting and had been asked to provide feedback on what session had worked well strategically, what paper had been most useful strategically, and what could be done differently in the future for the Board to occupy a more strategic space. The following points were made:

- The best sessions strategically had been on the 2024/25 Budget, Business Plan and 20204/27 Strategy and the Performance Dashboard. Having the 2024/25 Budget, Business Plan and 20204/27 Strategy item early on the agenda had helped the Board to focus on strategy throughout the rest of meeting and hearing from the Performance Sub-Group as part of this agenda item had helped the Board to focus its questions more strategically. The Board's feedback on the Performance Dashboard would help the Executive to refine performance reporting to ensure that it was more strategically focused.
- The most useful papers strategically had been the Executive report and 2024/25 Budget, Business Plan and 20204/27 Strategy. The Executive report had provided a strategic overview of the organisation, drawing attention to the key points for the Board to note and the concise, well written 2024/25 Budget, Business Plan and 20204/27 Strategy paper had helped the Board to focus on a small number of key strategic questions.
- There was value in continuing to structure the Board agenda so that strategic matters were discussed first.
- The Executive would reflect on the Board's helpful feedback on reducing the size of the Board pack, reducing the amount of duplication, refining Board papers and integrating Board reporting.

Item 16 – Any other business

81. There was no other business discussed.

