

Minutes of the 124th Meeting of the Office for Legal Complaints (OLC)

Thursday 15 December 2022

<p>Present: Elisabeth Davies, Chair Lis Bellamy Annette Lovell Hari Punchihewa (items 1-9) Alison Sansome Dale Simon Martin Spencer Jane Martin</p> <p>Board Secretary Kay Kershaw</p> <p>Apologies Sian Lewis, Treena Moseley, Operations Manager (item 5)</p>	<p>In Attendance: Paul McFadden, Chief Ombudsman Steve Pearson, Head of Complex Casework and Deputy Chief Ombudsman Michael Letters, Head of Finance 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 Deb McIntyre, Operations Manager (item 5) Mark Persard, Operations Manager (item 5) Leanne Brookes, Operations Manager Designate (item 5) Luke Hutcheson, Business Intelligence Manager (item 5) Steph Godbold, Stakeholder and External Engagement Manager (item 8) Sarah Gilbert, Policy Officer (item 8) Ashley McCann, Internal Communications Manager (items 7- 9) Laura Stockin, Legal Manager (items 10 and 11)</p>
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Preliminary issues:

The Board meeting was quorate.

Item 1 – Welcome, apologies and declarations of interest

1. The Chair welcomed attendees to the meeting, commenting on the significant progress that had been made by LeO over the last two years and acknowledging the disappointment felt by Board members and the Executive about performance against trajectories not being where it needed to be.
2. The OLC Chair declared that she was a member of the Civil Justice Council's (CJC) Working Group involved in the costs consultation that had been re-opened by the CJC following the Court of Appeal's ruling on Belsner v CAM Legal.

3. The OLC Chair declared that the individual who had successfully tendered to conduct academic research on quality assurance across the redress sector was known to her and that she had approached them about supervising her PHD.
4. The Chief Ombudsman (CO) declared that he had a previous professional connection to the individual who had successfully tendered to conduct academic research on quality assurance across the redress sector. The CO confirmed that he had had no part in the tender process.
5. There were no other declarations of interest reported.
6. Apologies were noted.

Item 2 –Previous minutes

7. The minutes of the OLC Board meeting held on 20 October 2022 were **approved** for accuracy and **approved** for publication.
8. The minutes of the OLC RemCo meeting held on 8 February 2022 were **approved** for publication.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 20 October 2022 and publish the minutes of the OLC RemCo meeting held on 8 February 2022.

Item 3 – Previous actions and matters arising

9. The Board **noted** a paper providing updates on previous actions, in discussion the following key points were made:
10. Action 3 Paragraph 10 from the October 2022 Board meeting: One application to tender for work to conduct independent academic research on quality assurance across the redress sector had been received. The application had met the required criteria and was in the process of being confirmed. The outcome of this research would inform and provide the benchmark for a future in-house review of LeO's Quality Assurance framework.
11. The Board was alert to the need for good governance considering that the field from which to appoint someone to conduct this research was narrow; that only one tender application had been received, and that the person who had successfully tendered for the work was known to the OLC Chair and Chief Ombudsman. Following a detailed discussion, the OLC Chair **agreed to** discuss this further with the CO and Deputy Chief Ombudsman (DCO) and provide an out of committee update the Board.

ACTION: The OLC Chair to follow up on the Board discussion about the need for good governance in respect of the independent academic research on quality assurance across the redress sector with the CO and DCO and provide an out of committee update to the Board.

12. The Board **agreed** that action 3 Paragraph 10 from the October 2022 Board meeting could be closed.

ACTION: The Board Secretary to close action 3 Paragraph 10 from the October 2022 Board meeting.

13. Action 6-9 Paragraph 35 from the October 2022 Board meeting: The Board's request for more comprehensive quarterly reports on Quality and Service had been noted by the Executive. The Board **agreed** that this action could be closed.
- ACTION: The Board Secretary to close action 6-9 Paragraph 35 from the October 2022 Board meeting.**
14. Action 6-9 Paragraph 39 from the October 2022 Board meeting: An update on the Hub Strategy had been issued to the Board on 9 December out of committee. The Board **agreed** that this action could be closed.
- ACTION: The Board Secretary to close action 6-9 Paragraph 39 from the October 2022 Board meeting.**
15. Action 5 Paragraph 27 from the September 2022 Board meeting: The Board **agreed** that this action could be closed, **noting** that the Q2 FET customer satisfaction results would be reported as part of the Q3 Quality and Service update at the January Board meeting and that a more detailed review and analysis of Quality and Service would be undertaken at the February Board workshop.
- ACTION: The Board Secretary to close action 5 Paragraph 27 from the September 2022 Board meeting.**
16. The Board was advised that the EDI Steering Group had not met in Q3 due to the departure of the EDI Manager and that the EDI people benchmarking data was not yet available. The next Board update on EDI was scheduled for April 2023. The Board Secretary **agreed** to seek clarification from the Executive on when the EDI People benchmarking data would be available to present to the Board.
- ACTION: The Board Secretary to seek clarification from the Executive on when the EDI People benchmarking data would be available to present to the Board.**
17. Board **noted** the update on previous actions and matters arising.

Item 4 – Executive report

18. The CO reported on the Q3 Business Assurance meeting that had taken place with the MoJ and LSB. The Board's attention was drawn to the following points:
- Discussions had focused on LeO's latest performance position; the underlying reasons for the changed year-end position; the mitigating actions being taken and the potential impact on future performance.
 - A broader discussion had focussed on the impact of the attrition and recruitment challenges experienced by LeO and all other MoJ Arm's Length Bodies (ALBs).
 - There had been limited discussion on the issue of pay being a crucial factor underpinning the attrition and recruitment challenges faced by LeO and other ALBs or the risks associated with this.
19. Board members sought to understand what support was being provided to ALBs by the MoJ to help identify solutions to address the challenges around attrition, recruitment and pay and questioned what other Public Sector Chief Executives were doing to address these challenges. In response, the CO explained that:

- There had been limited engagement between the MoJ and its ALBs to help address the challenges they were experiencing and no guidance had been provided on the pay remit or suggestions made for alternative approaches.
- In response to questions raised by the MoJ at the Q3 Business Assurance meeting, the CO had advised that most of the levers to address the challenges around attrition, recruitment and pay were outside of LeO's control and that any levers within LeO's control would have limited impact considering the current cost of living crisis, where the labour market was buoyant and LeO risked not being competitive for the highly skilled staff required to deliver complex investigations.
- Chief Executives of other ALBs faced similar challenges to LeO, had limited solutions within their control to address them, and the CO indicated an appetite to engage with the MoJ to explore solutions to the challenges they faced.

20. Board members questioned the underlying reasons for corporate staff attrition and the mitigating actions being taken to address it. In response the Board was advised that:

- Corporate attrition had fallen in December.
- Pay and lack of career progression due to LeO's flat structure were the main reasons for corporate attrition.
- Considering the buoyant labour market and that pay was outside of LeO's control, the Executive was exploring other ways of tackling attrition and making LeO an attractive place to work. An Employee Value Proposition (EVP) was being developed and would link into other work being undertaken on total reward and recognition that included pay benchmarking.
- Engagement was taking place with staff to gain insight into what they felt should be included in the EVP and what would make them want to continue to work for LeO.
- Feedback received so far indicated that there was an appetite for more flexible working but the ability to offer this was outside of LeO's control because the MoJ mandated the number of days that staff must work from the office.
- Feedback in response to the recent Budget and Business Plan consultation indicated that stakeholders recognised that pay and budget were key issues for LeO to tackle.
- Staff had welcomed the Executive's openness and honesty when communicating the challenges around attrition, recruitment, pay and ways of working.

21. Following a detailed discussion, Board members urged the Executive to do all that it could to exhaust the options available to address the challenges around attrition, recruitment, pay and ways of working and to ensure that LeO's EVP was attractive to staff.

22. The Board was advised that further operational recruitment would be taking place in Q4; this could reduce the current forecast underspend to below the MoJ tolerance level.

23. The Board **noted** an out of committee update that had been issued on the Hub Strategy and welcomed the progress that had been made.

24. In discussion, it was recommended that the lessons learned from the Hub Strategy, along with staff feedback on hybrid working, were taken into account as part of the developing Accommodation Strategy for the Birmingham Office. Recognising that the Hub and Accommodation Strategies were separate but inter-linked strategies, Board members commented on the opportunities they presented to explore different ways of working.

25. The CO reported that a project had been launched to assess the future accommodation needs for the Birmingham office and that early engagement had taken place with MoJ Estates to assess potential options. The Accommodation Strategy would take into consideration ways of working and the lessons learned from the Hub Strategy. The Board would be provided with regular updates on this.

ACTION: The Board Secretary to add updates on the Accommodation Strategy to the Board's forward plan.

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

Item 5 – Performance Dashboard – Interim update:

27. Reflecting on performance discussions that had taken place at the October Board meeting and discussions that had subsequently taken place with the LSB, the OLC Chair sought to understand why November's performance trajectories had not been met and what that meant for LeO's end of year and future performance.

28. In response to this and a question about why fewer people than planned had been recruited in the recent Operational recruitment campaign, the Head of Operations reported that:

- Recruitment and attrition had been central to the downturn in performance in November.
- Attrition had been higher than expected and compounded by several internal promotions to positions that ensured adequate support was available for new operational staff.
- Investigator recruitment in November had been lower than planned. Of the two thousand applications received, 125 people were invited to attend an assessment centre and interview; 40% of these people withdrew their application before attending. Twenty-five offers were made, five of which were declined.
- Due to the buoyant labour market, people were applying for multiple roles at the same time. Applications and offers made by LeO following the recent recruitment campaign had been withdrawn because applicants were accepting offers, where pay and benefits, including more flexible working conditions, were more competitive than those offered by LeO.
- Due to the buoyant labour market and the level of remuneration that LeO was able to offer, recruitment campaigns were now having to be targeted at less experienced Investigators. Consequently, more investment in resource and time was needed to train and support new Investigators to become fully established in role so that they were able to deal with LeO's complex investigations. This has had an adverse impact on LeO's performance trajectories.
- Having gained experience of complex investigations and becoming established in role, Investigators were leaving LeO for similar roles in competitor organisations offering significantly higher salaries, better benefits and more flexible ways of working.
- Alert to the risks associated with recruitment and attrition and the changing balance of established and non-established staff, which was now higher than originally

forecast, cases closures per investigator had been adjusted and performance trajectories had been reforecast for Q4.

- The Executive and the Performance and Quality Task and Finish Group was undertaking a robust review of performance trajectories to determine what level of performance would be a realistic and achievable by year end and in the future.
- Due to the time required to train new Investigators, the recent recruitment would have little impact on end of year performance. It was now likely that year end performance would be within 91-93% of the Business Plan target.
- Despite this, the progress made during 2022/23, and the significant efforts made by staff to improve productivity by 50% should not be lost. By the 16 December 2022, and with three months of the current Business Plan remaining, LeO would have closed the same number of cases that it had at the end of 2020/21. There was no complacency.
- The Executive had been disappointed by November's performance and remained focussed on maximising all levers within LeO's control to deliver the 2022/23 Business Plan.

29. In a detailed discussion, Board members reflected on the challenges associated with recruitment, attrition and performance, acknowledging that many of the levers to address these challenges were outside of LeO's control.

30. Questions were raised about whether there was an over-dependency on LeO's recruitment strategy and whether this strategy was realistic considering the current recruitment landscape. It was felt that planning according to the current recruitment landscape may help to better manage the associated risks.

31. When determining what level of performance would be acceptable to the OLC at year end and in the future, Board members stressed that it would be important to ensure that performance trajectories were realistic and achievable; took into account of the reasons underpinning performance between September and November and considered the impact of the recent recruitment round. Board members commented that forecasting realism and the right level of ambition would help to better manage stakeholder expectations.

32. Members also stressed that there should be an effective mechanism in place to proactively monitor any changes to the assumptions underpinning future performance forecasts and that effective action should be taken to revise forecasts in order to manage risks.

33. The Board was updated on discussions that had taken place at a meeting of the Performance and Quality Task and Finish Group in December. The following key points were made:

- Discussions had focussed on the assumptions underpinning performance trajectories and their impact on performance forecasts.
- Recognising that there had been a degree of optimism bias, it had been agreed that a line-by-line review of each of the current assumptions would be undertaken and a re-forecast made for Q4. Every effort would be made to deliver against the Business Plan at year end.
- Forecasts for 2023/24 would be even more robust, based on improved data and lessons learned in 2022/23. Optimism would be tempered with realism and what could be achieved. A range of additional factors, including training days, seasonality,

additional bank holidays, parental leave and CMS downtime would also be taken into account.

- There was a preference for forecasting in 2023/24 to be against a range of best, worst and likely case scenarios rather than a single figure.
- Consideration would be given to building in contingency and risk tolerance into the forecast.
- The Performance and Quality Task and Finish Group was to meet again in January to re-validate the assumptions and forecast.

34. In response to the points made, the OLC Chair requested a full and focussed discussion on the improved, realistic and revised forecasts for Q4 2022/23 and the 2023/24 Business Plan to take place at the January Board meeting to ensure that the collective expectations of Board members were managed and that there was clarity on what would be acceptable to the OLC at year end. **Agreeing** to this request, the CO drew the Board's attention to the limited time that would be available after the January Board meeting for any changes to be made to the Business Plan before it was submitted to the LSB. The CO proposed that the Performance and Quality Task and Finish Sub-Group scheduled for early January be used to test the Executives' re-assessment and revised forecasts and assumptions.

ACTION: The Board Secretary to update the Board forward plan for January to include a discussion on revised forecasts for Q4 2022/23 and the for the 2023/24 Business Plan and what would be acceptable to the OLC at year end.

35. The Board **noted** the interim update on the Performance Dashboard.

Item 6 – RemCo Update

36. The RemCo Chair updated the Board on discussions that had taken place at the November RemCo meeting on the delivery of the People Plan; HR metrics; recruitment , benchmarking; the Gender Pay Gap; leadership training and the annual RemCo effectiveness review and action plan. Papers that had been issued out of committee on the Celebrating Success Scheme, the re-prioritisation of the People Strategy, the Health and Safety Policy and the Lone Working policy had been ratified and endorsed and a private discussion had taken place after the meeting about senior pay.

37. RemCo had noted the extent of work that had been undertaken by the Head of People Strategy and Services and the progress that had been made whilst recognising that there was further work to be done.

38. In response to comments made, the Head of People Strategy and Services advised that the Personal Development Review (PDR) process would be rolled out in December along with guidance to staff and Line Managers. The first leadership development training session had focussed on setting objectives in preparation for annual PDRs.

39. In response to a request, the Head of People Strategy and Services **agreed** to share the People Strategy with the Board along with a paper that had been issued to RemCo setting out the re-prioritised elements of the People Strategy and the progress that had been made against them.

ACTION: The Head of People Strategy and Services to share the People Strategy with the Board along with a paper that had been issued to RemCo setting out the re-

prioritised elements of the People Strategy and the progress that had been made against them.

- 40.** The Head of People Strategy and Services reported on the interim arrangements in place for the EDI Manager role to ensure the continued alignment of EDI and HR Strategies. Commenting on work that had been identified by the EDI Steering Group on service delivery, the EDI Board Sponsor urged the Executive not to lose focus on external facing EDI whilst the interim arrangements were in place and to prioritise the appointment of a permanent EDI Manager.
- 41. The Board noted** the RemCo update, welcomed the significant progress that had been made, including the introduction of the PDR process and the developing EVP, and commented on the increased confidence this had given them.

Item 7 – Update on Civil Service Survey 2022

- 42.** The Head of People Strategy and Services reported on the headline results of the 2022 Civil Service Survey, drawing the Board’s attention to the following key points:
- There had been a 6% increase in the response rate and a 9% increase in the engagement score compared to last year’s survey. 178 staff out of a possible 285 had responded to the survey and the engagement score was 59%.
 - Except for pay and benefits, all scores had improved since 2021. Organisational Objectives and Purpose had been the highest scoring theme at 88%; an increase of 12% since 2021.
 - The joint second highest scoring themes had been My Manager and Inclusion and Fair Treatment, both receiving scores of 78%; an increase of 16% and 14% respectively.
 - The three most improved themes had been My Manager (78% score; an improvement of 16%), Leadership and Managing Change (56% score; an improvement of 15%) and Learning and Development (49% score; an improvement of 15%).
 - Eighty-seven percent of staff felt that they had not been discriminated against; an improvement of 11% since 2021
 - Ninety-four percent of staff had not experienced or witnessed Bullying or Harassment; an improvement of 10% since 2021.
 - In terms of next steps, the headline survey results would be shared with staff, the survey results would be analysed and discussed with key staff and actions plans developed and a detailed report would be presented to RemCo in March.
- 43.** Commenting on the pleasing survey results and the progress that had been made, the CO recognised that there was still more work to be done.
- 44.** Board members congratulated the Executive on the improved Civil Service Survey scores and progress that had been made particularly considering the backdrop of significant organisational change.
- 45.** The Board **noted** the update on the 2022 Civil Service Survey.

Item 8 – 2023/24 Budget and Business Plan

46. The Board was updated on the emerging feedback from the Budget and Business Plan consultation that had closed on 14 December. The following key points were made:

- Fourteen written responses representative of professional bodies, academics, regulators, consumer organisations, staff, service providers, individual consumers had been received and were consistent with stakeholder feedback provided throughout the year.
- Of these responses, seven had confirmed that their confidence levels in LeO had increased and four had confirmed that the increased confidence levels reported in their response to last year's consultation had remained the same.
- Recognising the recruitment challenges and that performance was not yet where it needed to be, all respondents felt that Priority 1 of the Business plan was a key. Responses indicated that there was a need for greater emphasis on the best practice demonstrated by LeO in supporting vulnerable customers as many of the respondents were unaware of this work.
- Respondents had been pleased with the progress made on delivering Priority 2 and the Scheme Rules changes but stressed the importance of monitoring the changes to determine their impact on consumers, service providers and operational processes. Questions had been raised about the budgetary impact of dealing with cases that didn't attract a case fee. Some respondents felt that LeO should still be pursuing outsourcing as an option.
- There was a recognition of the importance of Priority 3 and LeO's transparency agenda. LeO's continued transparency was considered best practice and provided stakeholders with greater confidence in LeO and the opportunity to support its improvement journey. Overall, respondents wanted more data sharing.
- Questions were raised about the term access to justice and the extent to which LeO could influence this; more information may need to be included on the final Business Plan.
- There was a general acceptance of the budget ask considering the inflation rate, but this was caveated by its impact on the profession and consumers. Comments were provided on reducing future budget.
- Stakeholders felt that the time was not right for LeO to consider taking on the unregulated sector and there were concerns about how such work would be funded.
- Feedback provided by stakeholders outside of the formal consultation would also be taken into consideration when drafting the final Budget and Business Plan document.
- A full summary of the consultation responses would be shared with the Board before the Christmas break for comment.
- The final Budget and Business Plan, including the Budget Acceptance Criteria, would be presented at the January Board meeting for approval. The approved documents would be shared with the LSB in February and considered by the LSB Board at its meeting on 21 March. Arrangements were in place for the publication of the approved Budget and Business Plan and associated communications.

47. The Board **approved** the revised ARAC Terms of Reference (ToRs), which had been updated to reflect changes to the ARAC attendees and actions arising from Internal Audit of Business Planning. ARAC had reviewed and agreed the changes to the ToRs at the October ARAC meeting.

ACTION: The Board Secretary to arrange for the updated ARAC ToRs to be published following a formal review of OLC Governance documents that will take place at the January Board meeting.

48. The Board **noted** the update on the 2023/24 Budget and Business consultation and process for approval.

Item 9 – Internal Communications update

49. A presentation was given to the Board about Internal Communication at LeO. The Board's attention was drawn to:

- A range of improvements that had been made over the last 12 months in response to staff feedback.
- The positive impact of the improvements on increasing levels of staff engagement through a variety of new and improved communication channels.
- A staff survey that had been conducted in July / August to determine the effectiveness of the improved communication and engagement channels and what further improvements could be made.

50. In response to the presentation and commenting on the two-way nature of communications, Board members questioned what was being done to ensure that staff engaged with communications; what was being done to support more effective team meetings, and what was being done to ensure that staff Council engaged more effectively with staff.

51. The Board was advised that staff engagement had improved over the last 12 months, as demonstrated by the improved scores from the Civil Service Survey and the feedback received from the internal communications survey.

52. It was recognised that Managers and Team Leaders had a vital role to play in communicating key messages to staff and encouraging them to engage and there may be scope to provide more support to them to ensure more effective communications.

53. Staff Council was to be refreshed in the New Year and its Terms of Reference would be updated to reflect the role it played in engaging and communicating with staff networks and the wider organisation.

54. The Executive was aware that more work was needed to ensure that staff were able to prioritise Team meetings, taking account of hybrid ways of working, the need to minimise any adverse impact on their workload and productivity, and what could be done to ensure that Corporate Team meetings were more effective considering that many of the corporate teams were quite small.

55. Board members had found the presentation on internal communications helpful and reassuring in terms of an inclusive staff culture and had noted the positive impact of the improvements that had been made and the responsiveness of the Internal Communications Manager to staff feedback.

56. The Board **noted** the internal communications update.

Item 10 – Understanding the OLC’s governance

57. At the request of Board members, the Head of Performance Management and Assurance delivered a presentation on the OLC Governance to aid decisions on the OLC Governance Framework and the Tripartite Protocol at the January Board meeting.
58. In response to the presentation, Board members had welcomed the Executive’s proposal to increase the frequency of Category 1 Publications. The Board was advised that a refreshed Category 1 Publications process was being developed; this would take into account the criteria to guide the identification of eligible cases for publication; the resource required to deliver and manage the work, and the need for the Board to scrutinise and challenge decisions made by the Executive before the Category 1 Publication Committee made a final decision on whether to approve the publication. Further information on this would be presented at the January Board meeting.
59. In response to questions raised out of committee by Board members, clarity was provided on requirements regarding lay and non-lay Committee Chairs and Committee membership.
60. Further to discussions on Committee effectiveness at the RemCo meeting in November, consideration was being given to refreshing the Committee’s Terms of Reference to ensure sufficient Committee membership to meet the requirements on quoracy and lay majority.
61. The CO recommended that the Chair of the Category 1 Publications Committee should be lay member of the Board.
62. Board members recommended that the OLC Governance Framework was updated to include more clarity on the relationship between the OLC/LeO, the LSB and MoJ, and the OLC/LeO’s accountabilities to each of them, as set out in the Tripartite Protocol. The CO **agreed** to reflect further with the HoPM&A on the best way of doing this before the OLC Governance Framework was presented for approval at the January Board meeting.
- ACTION: The Chief Ombudsman and Head of Performance Management and Assurance to reflect on the best way of updating the OLC Governance Framework to provide more clarity on the relationship between the OLC/LeO and the LSB and MoJ, and the OLC/LeO’s accountabilities to each of them, as set out in the Tripartite Protocol.**
63. The Board considered the role of the Performance and Quality Task and Finish Group, and whether it should be a formal Committee of the Board with specific areas of focus delegated by the Board, or whether it should be a Task and Finish Group that met as required to consider a particular issue.
64. In discussion the Board **noted** that the focus of the Performance and Quality Task and Finish Group over the last 18 months had been on performance related matters, including the Business Plan, forecasting and assumptions and that the Group had not considered any quality related matters.
65. The consensus following discussion was that:
- The Group should remain as a Group and should not become a formal Committee of the Board.
 - The Group should be renamed to better reflect its role and focus on performance.

- There should be clarity on the Groups delegated authority to consider specific matters and what the Board's responsibility would be regarding this.
 - There should be clarity on how information flowed between the Group and the Board.
66. The OLC Governance Framework would be updated to reflect the Board's feedback and a final version would be shared with the Board for approval at the January Board meeting.
67. The Board **noted** the presentation on the OLC's governance.

Item 11 – Ombudsman Decisions

68. The Board discussed a cross section of anonymised Ombudsman decision letters had been shared with members outside of committee in October. The following key points were made:
- Board members had found the Ombudsman decisions letters to be insightful and had helped them to better understand the range of complaints and the complexity of complaints considered by the Ombudsman; the amount of care shown by the Ombudsman in understanding the complaints, and the overall quality of the work produced.
 - It was important for the style, tone, language and length of each Ombudsman letter to be balanced and appropriate for the recipients (the complainant and the lawyer). Considering this, case decision letters and final Ombudsman decision letters were constantly reviewed as part of LeO's Quality Assurance process.
 - The rationale for an Ombudsman's decision should be clear and based on evidence to ensure objectivity, minimise any risk of ambiguity and any risk of subsequent challenge. To ensure this, final Ombudsman decisions letters make clear reference to the evidence that had been relied upon.
 - Consideration could be given to benchmarking LeO's Ombudsman's decision letters against other Ombudsman schemes to ensure best practice in terms of style and clarity, noting that it might be possible to do this through the peer review model adopted by Ombudsman schemes.
- ACTION: The DCO to consider benchmarking LeO's Ombudsman's decisions against other Ombudsman schemes to ensure best practice in terms of style and quality.**
69. Board members sought to understand how case complexity was determined. The DCO explained that case and decision complexity are determined on a matrix basis based on wide range of factors advising that more information on this could be shared with the Board if required.
70. Board members discussed the possibility of a future Board workshop focussed on the wider facts and issues underpinning cases that included Investigator case decisions and final Ombudsman decisions.
71. Following discussion, the OLC Chair stated that further consideration would be given with the CO and DCO to determine the next steps and the best way of building on the discussion about Ombudsman Decisions.

ACTION: The OLC Chair, CO and DCO to consider the next steps and the best way of building on the discussions about Ombudsman Decisions.

72. The Board **noted** the Ombudsman's decisions.

Item 12 – Legal update

73. The Legal Manager provided an annual update on the work of LeO's Legal Team, drawing the Board's attention to the following key points:

- Enforcement activity was low compared to the number of Ombudsman decisions made; 17 referrals to enforce an Ombudsman's decision had been received so far in 2022/23.
- In line with LeO's strategic approach to enforcement, the Ombudsman had made 3 decisions so far in 2022/23 not to enforce an Ombudsman decision.
- Since joining LeO in March 2022, the Legal Manager had introduced two key enforcement improvements: A fact sheet had been produced to help customer to understand the enforcement process, and training had been delivered to Ombudsman on what an enforceable decision looked like.
- Eight Judicial review (JR) claims had been received so far in 2022/23; this was consistent with the number of claims received in previous years. Compared to other Ombudsman Schemes, LeO received a higher number of JR claims; this was to be expected considering that service providers were likely to have a good understanding of the JR process.
- On assessment of a JR claim, the Legal Team advise the Ombudsman on the next steps, which could include withdrawing the decision where a claim was considered to have merit. Learning from JRs was fed back to the Ombudsman and wider organisation to drive improvements.
- In addition to dealing with enforcement and JRs, the Legal Team undertakes a significant amount of work to recover legal costs and case fees, and the Legal Manager provides advice and guidance as part of a multi-disciplinary team to ensure that reasonable adjustments are provided to vulnerable customers to ensure they receive the best service from LeO.

74. The Board welcomed the update on the work of the Legal Team. Members commented that it had been helpful to understand the broader legal context of the Legal Team's work had had found the strong customer focus pleasing.

75. Board **noted** the legal update.

Item 13 – EDI: Social Mobility

76. The Board reviewed and discussed the findings of research undertaken to measure the socio-economic background of OLC Board members and the Executive Team, noting that due to an absence of benchmarking data, some of the survey scores did not add up to 100%. In discussion, the following points were made:

- Very little research had been undertaken on the socio-economic background of Board members and Executive Teams by similar organisations; external reporting on this was likely to be a requirement in the future.
- The research questions were designed by the Social Mobility Commission. The sample size was small, with thirteen responses received (93%).
- The 93% response rate had been disappointing considering the importance of this research and how it may be perceived more widely. It was recommended that sufficient time was allowed for similar research in the future to ensure better response rates.
- Understanding the socio-economic background of the Board and Executive may have a positive impact on staff retention and levels of ambition across the organisation.
- Some Board members had been excluded from answering the question about eligibility to free school meals because of the way the question had been worded; this may have distorted the responses.
- Considering the current economic climate, it was felt that the national benchmark figure of 15% for children being eligible for free school meals may be inaccurate.
- The survey results highlighted that the OLC Board and LeO Executive were economically diverse; wider stakeholders may be surprised by this.

77. The OLC Chair explained that she would follow up on the survey results with the Research and Insight Manager and the EDI Board Sponsor to determine the next steps.

ACTION: The OLC Chair discuss the next steps on the Social Mobility with the Research and Insight Manager and the EDI Board Sponsor.

78. The Board **noted** the update on Social Mobility.

Item 14 - Board Paper Redactions and Non-Disclosure Report

79. The Board reviewed a paper setting out the redactions and items for non-disclosure proposed in respect of the December Board papers and **approved** the items identified for redaction and non-disclosure.

ACTION: The Board Secretary to publish the December Board papers in line with the Board's approval of the redactions and items for non-disclosure.

Item 15 – Board Effectiveness

80. In line with the Board's commitment to improving Board effectiveness, Board members reflected on the Board meeting.

81. Overall, Board members had felt that there had been some very productive discussions at this meeting. Exploring performance in detail had been especially helpful to aid Board members' understanding on current performance and the year-end trajectory and the updates on the work of the Legal Team, Internal Communications and the Civil Service Survey results had also been insightful.

82. A request was made for or lunchbreaks to be a minimum of 30 minutes.

Item 16 –Any other Business

83. The OLC Chair thanked Board members and the Executive for their hard work, commitment and diligence throughout 2022.
84. There was no other business discussed.