

Minutes of the 108th Meeting of the Office for Legal Complaints (OLC)

5 October 2020: 11:00-14:00 by video call

Present

Elisabeth Davies (Chair)
Rod Bulmer
Annette Lovell
Rebecca Hilsenrath
Elisabeth Bellamy
Jane Martin
Hari Punchihewa (items 5 and 6)

In attendance:

Siobhan Fennell, Head of Governance and Strategy
Mariette Hughes, Acting Chief Ombudsman
Michael Letters, Head of Finance
Steve Pearson, Deputy Chief Ombudsman
Laura Stroppolo, Business Planning Manager
Alex Moore, External Affairs Team Leader
Petrina Hoggan, Head of Organisational Design and People Strategy

Board Secretary

Kay Kershaw

Item 1 – Welcome, apologies and declarations of interest

1. The Chair welcomed attendees to the meeting.
2. There were no apologies.
3. The meeting was quorate.
4. There were no declarations of interest reported.

Item 2 – 2020/21 KPI's

5. The Board reflected on the discussion that had taken place at the September Board meeting where the Executive had proposed a suite of 8 KPIs for 2020/21. At this meeting, the Board had confirmed that it had been content with the proposed KPIs but had requested further information on the KPI targets.
6. A paper setting out more information about the KPI targets and the rationale for each of them was presented to the Board for consideration.
7. KPI 01: Reasonable outcome:

The Executive proposed a KPI target of 95%, in line with the previous year's target. A 5% tolerance would be linked to this target and the Board would be notified if there was any variance over 5%. This KPI would not be adjusted for Covid.

In discussion, the Board was advised that, this target had been met in the past and would be reported to the Board. Supporting narrative would accompany this KPI when it was published to ensure that the KPI was appropriately framed.

Following discussion, the Board **agreed** the reasonable outcome KPI and agreed the target of 95% target and no adjustment for Covid.

8. KPI 03: Customer Satisfaction:

The Executive proposed that the KPI target for customers satisfied with the outcome, remained the same as the previous year at 85%, but for customers dissatisfied with outcome the target should be lowered from 15% to 12%.

The Board considered the advantages and disadvantages of leaving the customer dissatisfied with outcome KPI at 15%, noting that this KPI had not been met in previous years but that it provided valuable insight that helped the organisation to better understand what changes may be required to improve the service offered by the organisation.

Following discussion, it was **agreed** that the KPI target for customers dissatisfied with outcome should remain at 15%.

9. KPI 02: End to End Customer Journey time

The Executive presented three options for the Board to consider for the end to end to end customer journey KPI, recommending option two.

In a detailed discussion about the implications of each of the options presented, the Board stated this KPI would be subject to the most scrutiny and that it would therefore be important to ensure that any published data was adequately contextualised in the form of clear supporting narrative.

The Board discussed how the 'end to end' aspect of this KPI would be evolving over time, something that had been recognised when agreeing the commonly agreed data set, and that it would therefore be more appropriate to refer to this KPI as 'customer journey time' for the time being. Additionally, the Board stated that it would be important to clarify the point at which this KPI was measured from and that a definition of the KPI was included on the website.

Following a detailed discussion, the majority of Board Members **agreed** that they favoured the use of Covid adjusted targets for this KPI on the understanding that it would be published with a clear, careful and finessed contextualising narrative.

By way of further assurance, the Head of Governance and Strategy offered to circulate an assurance paper, setting out what pre-Covid and Covid adjusted targets and narrative might look like for customer journey time to assist Board Members in making a final decision on this KPI.

ACTION: The Head of Governance and Strategy to circulate an assurance paper setting out what pre-Covid and Covid adjusted targets and narrative might look like for customer journey time to assist Board Members in making a final decision on KPI 02.

10. KPI 09: Volume of Cases Awaiting Assessment

The Board sought a more detailed rationale for why there was an anticipated increase in the number of cases in PAP due to the impact of Covid when the overall customer journey time was only expected to increase by 15 days. The Head of Governance and Strategy **agreed** to provide further clarity on this in the assurance paper that she would be circulating to the Board regarding KPI 02.

Additionally, the Board requested that a forward look for 2021/22 was included in the assurance paper for this KPI.

ACTION: The Head of Governance and Strategy to ensure that the assurance paper included a detailed rationale for why there was an anticipated increase in the number of cases in PAP due to the impact of Covid when the overall customer journey time was only expected to increase by 15 days and to provide a forward look for 2021/22.

11. KPI 08: Quarterly and rolling staff turnover.

In response to a question raised by a Board Member, the Head of Governance and Strategy advised that the data on the average UK attrition rate had been taken from the website of the Chartered Institute for Professional Development and it had been provided to the Board as a comparator.

12. KPI 04 and KPI 05: Service Providers agree that Leo provides useful and relevant training resources and Stakeholder satisfaction.

The Board sought to understand the difference between KPI 04 and KPI 05 and whether both KPIs were required. In response the Head of Governance and Strategy clarified that KPI 04 related to those stakeholders that had completed surveys after attending LeO's training courses whilst KPI 05 related to stakeholders that had completed an annual survey.

The Chair advised that there may be value in revisiting these KPIs in the future to consider whether they could be combined, but for this year it would be important for them to remain as they were to ensure openness and transparency.

Item 3 – Board soundings on the 2021/22 Budget and Business Plan

- 13.** The Chair explained that the purpose of this agenda item was to test and inform the approach towards developing the 2021/22 Budget and Business Plan, which had taken into account the findings from the Budget Learning Review.
- 14.** This would be the first of a three-stage process in preparation for the launch of the public consultation on 2021/22 Budget and Business Plan at the end of October. The second stage would involve presenting the Budget and Business Plan before a LSB challenge panel and the third stage would be the final sign off of the final Budget and Business Plan consultation document at the October Board meeting.
- 15.** Board Members were asked to consider what they would like to see included in the Budget and Business Plan for 2021/22. The following key points were made:
- There needed to be flexibility and scope for the new CO and COO to reflect and take ownership of the Budget and Business Plan when they join the organisation.
 - There needed to be transparency - include clear narrative, provide context, explain why there will be a continuing increase in PAP in 2021/22, and provide

benchmarking. Consider the findings set out in the report on Corona Virus and the Impact on Ombudsman Schemes.

- Consideration should be given to positioning - articulate the positive impact of the Legal Ombudsman to counterbalance the negative stories about how long investigations currently take.
- Include a trajectory for improvement and performance recovery – consider the need to ensure continued support for stability whilst also targeting the PAP and actively addressing and responding to the backlog.
- Be realistic - be clear about what could be achieved with the resource available. Recognise that the challenges faced by the organisation in the past had been largely driven by insufficient funding and that the organisation needed to be properly funded in 2021/22 or else decisions would have to be made on what could realistically be delivered. This would also need to be balanced by the extent to which the Legal Sector would realistically want to invest in additional resourcing.
- Include a degree of ambition - consider the need for innovation (technical, strategic and cultural) and doing things differently; this could include different ways of dealing with complaints such as introducing specialist teams, whether all cases required a full Ombudsman decision and whether third party resources could be used and consider at ways to improve performance managing staff and helping them to do their jobs better.
- Include an indication of demand forecasting – consider the buoyancy of the housing market and the implications of this for complaints in 2021/22.
- Consider the professional relationship between staff and the organisation – is it where it should be? Focus on people in the first instance, address attrition to achieve stability before introducing process changes and innovation.
- Invite robust challenge.
- Consider whether this would be a one-off budget or multi-year budget – if this is to be a one-off budget what are the implications for staffing and training. Would LeO want to consider accessing the PHSO training academy and what would the implications be for staff readiness and the impact on their productivity?

16. A degree of caution was urged in regard to benchmarking LeO against other Ombudsman schemes as it was felt that comparators often didn't work well in this context because Ombudsman Scheme worked in different ways and all measured and reported their work in differently.

17. The Acting CO advised that any innovative changes to the process for dealing with Ombudsman decisions and using third parties to determine complaints would require a change in legislation.

18. Recognising the need to do something new and different, the CO reminded the Board that several different approaches had been introduced in the past through the Modernising LeO initiative, but they had not been given sufficient time to embed. This had had a detrimental impact on staff engagement, and it would therefore be important when introducing any new processes in the future to ensure that staff were fully engaged to mitigate the risk of them leaving the organisation.

Item 4 - Context to 2021/22 Budget and Business Plan

19. The Head of Governance and Strategy presented slides setting out the context in which the Executive was thinking regarding Business Plan deliverables against strategy for 2021/22.
20. The Board was reminded that Legal Ombudsman's statutory objective was to resolve complaints quickly with the minimum of formality.
21. The Executive had deemed the three strategic objectives set out in the 2020/23 strategy remained fit for purpose and suggested that these would therefore be the focus of the 2021/22 business plan deliverables.
22. Before LeO had been created the cost of complaint handling had been much higher and there had been a de-investment in the funding over time. The Executive suggested that this should be reflected in the supporting narrative accompanying the budget and business plan which should also reflect that LeO's output would be directly tied to resourcing.
23. Strong feedback on further funding for LeO had been received from parts of the legal services sector. The Executive felt that it would be important to balance this with the positive feedback received from consumers and legal service providers about the service received once investigations had begun.
24. Recognising that the Board had provided earlier feedback on comparing LeO to ombudsman schemes, the Head of Governance and Strategy felt that it was important for the Board to note that LeO's funding appeared to be out of step with demand when compared to other ombudsman schemes
25. Considering the high number of complaints generated by some firms, it was suggested that an alternative case fee structure could be considered to encourage those firms to improve their service.

Item 5 – Business Plan deliverables

26. The Head of Governance and Strategy provided a brief update on the 2020/21 Business Plan deliverables advising that, despite the pandemic and the standstill budget, progress was being made on actions relating to key deliverables such as the People Plan, improvements to the front-end of the business, stakeholder relationships, developing management information and business intelligence and on work relating to the Equality Priority Objectives.
27. The Head of Governance and Strategy presented slides setting out details of the Executive's emerging thinking on the following proposed business plan deliverables for 2021/22 and the targeted activities that would underpin each of them.
 - Deliverable 1: Maintain stable operational delivery and achieve a reduction in wait times at assessment.
 - Deliverable 2: Test innovative ways to deliver aspects of our service more efficiency and to keep pace with evolving legal sector and consumer expectations.
 - Deliverable 3: Maximising our impact with limited resource.
28. Recognising that the Business Plan deliverables needed to be realistic and that there was no quick fix to achieving consistent and stable delivery, the Board was advised that

addressing the front end wait times would require sustained parallel improvement activity in areas relating to people, capacity and the business process.

- 29.** The Board was advised that increasing capacity was not enough on its own to improve the efficiency of service delivery and consideration would need to be given to revising processes, improving forecasting and testing innovative ways of working. Any recommendations made to improve the efficiency of case handling would be based on evidence.
- 30.** Recognising that current resource for insight work was out of step with the size of the sector within the legal services market related to LeO's jurisdiction, the Board was advised that additional resource would be required to maximise LeO's impact.
- 31.** The Board sought clarity on how the activities underpinning the Business Plan deliverables would specifically target the PAP. In response the Acting CO advised that streamlining front-end processes through innovation would free up GET time, allowing staff to: support pilot projects, which if successful would result in further reductions in the PAP; identify and deal with cases that were quick wins and undertake preliminary work to ensure that cases were investigation ready.
- 32.** In response to the slide presentation the Board made the following comments:
 - Consideration should be given to consulting on two different Budget and Business Plans (Plan A and Plan B) : A Budget and Business Plan setting out continuous and incremental improvements requiring a smaller budget and another setting out more radical improvements requiring a larger budget.
 - Considering the incremental approach towards improving performance set out in the proposed Business Plan, the Board questioned whether the PAP at the end of 2021/22 would be an acceptable outcome.
 - Consideration should be given to bringing forward the proposed recruitment as part of deliverable 1 to earlier in the year as July was too late.
 - Consideration should be given to using an automated process to deal with the contacts received at the front end of the business for matters that LeO was not able to deal with.
 - Board Members should be utilised fully in making the OLC's voice heard externally to maximise their impact.
 - Understanding the root cause analysis was key to addressing the issues faced by LeO.
 - Insight and impact should be integral to the business process.
 - It was imperative to ensure strategic alignment between the Board and Executive.
 - Improvement journeys take time and it is imperative that they are phased and planned properly and that the sector understood this.
- 33.** The Board was advised that the timing of the budget approval meant that it would not be possible to recruit before July.
- 34.** The Executive supported the proposition to consult on two different Budget and Business Plans, but was concerned that, in doing so, a wide range of responses could be received which

might make it more challenging to identify the way forward. The Chair commented on the positive benefits of receiving a diverging range of opinions.

35. The Acting CO stated that any decision on automating the process at the front-end would need to take into account the value that was added by the GET when dealing with contacts, even though they didn't all transfer into cases. Much of this work related to premature complaints, which in other ombudsman schemes were counted as complaints. When dealing with premature complaints, GET provides advice to complainants on how to pursue a first-tier complaint with the lawyer. Greater visibility of this work may be required to ensure that stakeholders understood the value and impact of this work.
36. The Executive stated that the out-turn position of the PAP at end 2021/22 would not be at an acceptable level, but there would be a risk in increasing capacity too soon to bring this down more quickly, however, there would be a more stable trajectory by the end of the year.
37. The Head of Governance and Strategy requested a steer from the Board on what it was looking for regarding a plan B Budget and Business Plan, drawing the Board's attention to the constraints the Executive would have in developing this plan within the limited timeframe available. In discussion, it was decided not to proceed with a Plan B Budget and Business Plan, but there would need to be absolute clarity on what plan A would achieve, with a focus on the next 17 months.

Item 6 – Next steps for October

38. The Head of Governance and Strategy reported that the Budget and Business Plan would be further developed based on the feedback provided by the Board. Headline projections and costs would be determined, and careful consideration would be given to consistency narrative and positioning and the degree of ambition.
39. The updated Budget and Business Plan would then be shared with the LSB at a challenge meeting on 12 October.
40. A draft Budget and Business Plan consultation paper, reflecting the feedback from the challenge panel, would be presented to the Board to review at its meeting on 26 October, with a view to signing it off for consultation.