

Minutes of the Sixty-Sixth Meeting of the

Office for Legal Complaints (OLC)

Tuesday 15 September 2015

11:15 – 16:15 pm

Legal Ombudsman, Birmingham

Present:

Steve Green, Chair
Bernard Herdan, member
Michael Kaltz, member
Tony King, member
Jane McCall, member
Professor Philip Plowden, member

In attendance:

Ian Brack, Interim Chief Executive
Kathryn King, Interim Chief Ombudsman
Paul Partridge, Interim Director of Corporate Services
Dr Elizabeth Gibby, Deputy Director, Access to Justice Directorate, MoJ

Apologies:

Catherine Lee, OLC Accounting Officer
Caroline Coates, member

Board Secretary:

Helen White

Preliminary issues:

The Board meeting was quorate.

Item 1 - Welcome and apologies

1. The Chair welcomed Dr Gibby to the meeting. He noted that she was attending the meeting on a one-off basis in place of the OLC AO, who was unfortunately not able to attend in person. He also noted the apologies sent by Caroline Coates.
2. The Chair noted the standing declaration of interest from Prof Plowden regarding his university's research engagement with Lockheed Martin, who were working with the OLC on the new case management system.
3. Staff attendees made a general declaration of interest for discussions related to Item 7 (Organisation Refocus Update) and 11 (Staff Benefits Update).

4. The Chair thanked members for their timely response to requests over the summer period and assured them that this level of communication was not the norm.
5. The Chair reminded members to submit their expense requests as the end of the quarter was approaching.

Item 2 - Minutes of the previous meeting

6. The minutes of the meeting held on 22 July were approved.

Item 3 - Matters arising and outstanding action points

7. 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

8. The items presented for information were noted. No comments had been received in advance of the meeting for circulation

Interim Chief Executive's Report

9. Discussion took place on the Review of Financial Controls and Systems. It was noted that Grant Thornton had identified the documentation for review and were undertaking their field work. Regular updates would be provided to both the interim Chief Executive and Dr Gibby at the MoJ. It was noted that these updates would be shared with the Board sub-group (comprising the Chairs of OLC, RemCo and ARAC) and the permanent Chief Executive, once in post.
10. Discussion took place on the level of judicial reviews. To enable members to review trends and numbers, the General Counsel was requested to provide a note to Board members regarding the judicial review identified in the report which has implications for a significant number of other cases.

ACTION:

- **The General Counsel to provide a briefing regarding the judicial review identified as having consequences for a significant number of cases.**
11. Discussion took place on the budget review being conducted by the MoJ. Members noted that the OLC had been notified that the MoJ would be engaging in a series of challenge panels due to commence 9 October.

Case Management System

12. Discussion took place on the case management system and in particular the statistics on performance, service disruption, target service levels and trends.

13. It was noted that technical fixes had addressed many of the issues but that there was extensive development and implementation work still to do. Members agreed that to learn from the programme, a post implementation review needed to be undertaken to fully understand the issues and the planning which had taken place at the beginning of the process. It was agreed that the OLC Chair and interim Chief Executive would discuss how this review would be conducted.

ACTION:

- **The OLC Chair and interim Chief Executive to discuss how the post implementation review should be conducted and provide an update to the October Board.**

14. Discussion took place on the impact the system issues had on staff morale and confidence. Members agreed that the staff engagement plan needed to address these issues.

15. Discussion took place on the staff communication around the new system and how staff were updated on progress. Members noted that the interim Project Manager was addressing communication issues.

16. The interim Chief Executive reported that there were parts of the organisation where system functionality was less effective. The Chair stated that he would encourage staff feedback at the forthcoming all staff event.

17. As part of her role of Board lead on business transformation, Jane McCall reported that she had looked at how the current system was working. Her initial sense was that there was a lack of reassurance as staff were not informed on progress on their individual queries.

18. She reported that she was keen that the organisation use IT as a lever for business transformation. It was noted that she had met with the new Head of IT, Nikki Greenway and had agreed that a principles paper be drawn up to set out the broad business principles around the business transformation. This would be presented to the October OLC Board.

ACTION:

- **The Board Secretary to note on the Forward Planner that a paper to outline the broad business principles around the business transformation programme be tabled to the October OLC Board.**

Interim Chief Ombudsman's Report

19. Discussion took place on the recruitment process being undertaken to address peaks in workload. This comprised both a pool of self-employed ombudsmen and a one year fixed term post. Members noted that interviews were planned for early October and that Tony King would sit on the interview panel. Members noted that internal applications had been received for the

one year secondment opportunity. Board members agreed that if more than one candidate was suitable then it would be prudent to appoint up to three fixed term ombudsmen. It was noted that should internal applicants be successful, this would not impact on operational performance.

20. The OLC Chair thanked the interim Chief Ombudsman for the work undertaken to re-engineer the service. He noted that it was important that this piece of work be communicated externally.
21. Discussion took place on a three month pilot which is underway to help complainants raise their initial complaint with the CMC. The interim Chief Ombudsman emphasised that CMC staff were not in any way acting as advocates for the consumer; the role was simply as a post-box.
22. Discussion took place on the ESRO research on customer needs, which was in its closing stages. The interim Chief Ombudsman reported that it would be really constructive for members to see the research. Discussion took place on the potential future use of the research material. Prof Plowden requested that this research feed into the workstream regarding use and analysis of OLC data.

ACTION:

- **The interim Chief Ombudsman to propose how the Board would see the results of the customer needs research.**
- **The interim Chief Ombudsman to ensure this research feed into the workstream regarding the use and analysis of OLC data.**

Finance Report

23. Members discussed the Finance Report. Discussion took place on the CMC budget and the reduction in the level of contingency remaining in the forecast. It was noted that the key challenge for CMC's was the case fees which were significantly lower than the business plan.
24. It was noted that the contingency had also been reduced on the legal jurisdiction forecast. Members noted that a further budget reforecast would be undertaken in October.
25. Members noted that relevant approvals had been obtained and therefore approved the expenditure requests as laid out in the Finance Report.

Performance Report

26. Discussion took place on the performance report. Members noted that case volumes were down on plan assumptions. Discussion took place on how this reduction in volumes adversely impacted the unit cost per case. It was noted that the budget planning cycle would start in November at which point the staffing resource model would be reviewed in greater detail. Prof Plowden reiterated his concerns about the research resource and capabilities within

the organisation. It was noted that a paper was due to be tabled to the October OLC Board by the interim Chief Ombudsman on complaint volume research.

ACTION:

- **The interim Chief Ombudsman to table a paper to the October OLC Board on complaint volume research.**

27. Discussion took place on the unit cost. Members agreed that the current measure of unit cost no longer supported some of the OLC's strategic objectives.

28. Discussion took place on the ombudsman resourcing issues and how these impacted on the resolution of timeliness. The interim Chief Ombudsman reiterated that ombudsman resourcing was being addressed and outlined the activities underway. Members questioned whether the fixed term secondment of three investigators would place undue pressure upon investigator resource and were assured that at present this would not do so. The Ombudsman recruitment cycle was due to be completed by the end of October and it was hoped that performance would show an improvement from December.

29. Members noted that there would be an in depth discussion on performance at the next OLC Board meeting.

Register of Interests

30. Members noted the register of interests. No amendments were proposed so it was agreed that the register would be published on the LeO website as part of the LeO publication scheme.

ACTION:

- **The Board Secretary to publish the register of interests on the external website as part of the LeO publication scheme.**

Board Member Expenses

31. Members noted the board member expenses report for Q1 2015/16. No amendments were proposed so it was agreed that the report would be published on the LeO website as part of the LeO publication scheme.

ACTION:

- **The Board Secretary to publish the board member expenses report for Q1 2015/16 on the external website as part of the LeO publication scheme.**

Register of Hospitality

32. Members noted the register of hospitality for the first quarter of the 2015/16 financial year. Discussion took place on the stakeholder engagement activity

which had taken place which was not included in the register as it did not involve hospitality. It was agreed that the report would be published on the LeO website as part of the LeO publication scheme.

ACTION:

- **The Board Secretary to publish the register of hospitality report for Q1 2015/16 on the external website as part of the LeO publication scheme.**

ARAC Terms of Reference

33. Members approved the suggested revisions to the ARAC Terms of Reference.

ACTION:

- **The Board Secretary to publish the revised ARAC Terms of Reference.**

RemCo Terms of Reference

34. Members approved the suggested revisions to the RemCo Terms of Reference, with one small amendment to the 'membership' section to ensure it matched the ARAC terms of reference.

ACTION:

- **The Board Secretary to publish the revised RemCo Terms of Reference, with the amendment to the 'membership' section.**

Item 5 – Claims Management Volume and Budget Forecast 2016/17

35. Members welcomed Simon Tunnicliffe, Head of CMC. Discussion took place on the revised CMC forecast and budget document.

36. It was noted that whilst initial contacts were higher than those forecast within the original business case, the number of cases accepted was lower than forecast. The revised forecast therefore took this into account and the staffing model was amended to better reflect volumes.

37. Members noted that work had taken place with the MoJ sponsor team in the development of the budget forecast for 2016/17. This budget represented a 13% reduction on the 15/16 budget with a forecast unit cost of £880.

38. Members noted that the CMC market was contracting and continuing to contract which gave uncertainty to the budget.

39. Discussion took place on the high levels of bad debt within the CMC jurisdiction.

40. Members noted that Kevin Rousell, the head of the claims management regulator, was provisionally scheduled to present to the OLC Board in January 2016.
41. Members approved the CMC volume forecast and budget and noted the contents.

Item 6 – RemCo Update

42. The RemCo Chair updated members on the RemCo meeting held on 9 September and circulated the draft minutes.
43. Members noted the programme of work being undertaken on staff training and development. RemCo members believed more focus was needed on the holistic needs of the organisation.
44. Members noted that the staff survey action plan was discussed and refined by RemCo members. It was circulated to OLC members and the RemCo Chair requested that any comments be sent to him.
45. The RemCo Chair reported that the Performance Support Framework policy had been tabled but RemCo members felt it too detailed to approve and asked the Executive to formulate a structure for the cyclical review and approval of policies. The OLC Chair requested a formal timetable for the review of policies be tabled at the OLC Board.

ACTION:

- **The interim Chief Executive to propose a structure and timetable for the cyclical review and approval of policies.**
46. Members noted that discussion had taken place on the current performance incentive scheme. RemCo members believed this deserved further attention and agreed that the HR Manager would table a proposal to RemCo for an external consultant to conduct a review of the current scheme.
 47. Members noted the draft RemCo minutes circulated for information.

Item 7 – Organisation Refocus Update

48. The interim Chief Executive updated members on the current progress on the organisation refocus. It was noted that Paul Partridge had been appointed interim Director of Corporate Services. The new Head of IT, Nikki Greenway, had recently joined the organisation. The interim Head of IT was to remain in post for a short time to provide a handover. This also enabled Nikki to focus on the strategic thinking. The interim Head of Policy, Research and Communications, Angeline Burton, had been appointed to the end of the year.

49. Members noted that discussions had started with the permanent Chief Executive about the development and staffing of the CEO office.
50. Members noted that work still had to be done to regularise the business case for the combination of these roles and were keen that this be finalised and submitted to the MoJ as soon as possible.

ACTION:

- **The interim Chief Executive and interim Director of Corporate Services to finalise the business case for the combination of the roles affected by the refocus proposals.**

Item 8 – EU ADR Update

51. The interim Chief Ombudsman updated members on the current situation in relation to ADR. It was noted that agreement had been reached with the LSB to withdraw the OLC's application to become an ADR entity, whilst a consultation took place. The interim Chief Ombudsman reported that the eight week consultation had commenced on 7 September and a round table event for stakeholders was planned for 23 September, which Tony King and the OLC Chair were attending.
52. Discussion took place on the ADR signposting requirements which would come into effect on 1 October. It was noted that the Law Society had posted some suggested standard wording to be used for signposting.
53. The interim Chief Ombudsman would provide a further update once the consultation had closed.

ACTION:

- **The interim Chief Ombudsman to provide a further update once the consultation had closed.**

Item 9 – Appetite for Risk

54. It was noted that the Audit and Risk Assurance Committee had been discussing the format and presentation of the corporate risk register and had agreed that a new format would be developed. Parameters were agreed to ensure the register would provide the required detail and information. It had been agreed that the MoJ risk register format would be adopted. The Director of Corporate Services and his team were working through the process of putting one of the existing risks into the new format which would be followed by a detailed discussion scheduled at the October ARAC. A paper would then be tabled to the December OLC Board to present the revised risk register.

55. To inform the ARAC meeting in October, discussion took place on the OLC Board's appetite for risk. It was noted that the OLC had a low risk appetite for anything which affected governance or which caused detriment to the service user. The interim Chief Executive stated that there should be absolutely no tolerance for risks which affected the organisation's internal processes.
56. It was noted that once the permanent Chief Executive joined, discussions would commence on the organisation's risk strategy.

Item 10 – Board Working

57. The interim Chief Executive reported that the OLC were closely aligned to the Information Commissioner's publication model. Discussion took place on the organisation's practice for the production of board minutes. It was agreed that an agenda item would be added to the October OLC Board to enable further discussion.

ACTION:

- **The Board Secretary to note that Board Working would be discussed at the October OLC Board.**

58. Discussion took place on the proposal that staff observers attend OLC Board meetings. It was agreed that there would be certain agenda items at which staff observers could not be present. Members agreed that a six month pilot should take place to enable staff observers to attend OLC Board meetings. It was noted that the process would be administered by the Staff Council.

ACTION:

- **The interim Chief Executive to proceed with the introduction of staff observers at OLC Board meetings.**

Item 11 – Staff Benefits

59. The interim Chief Executive updated members on the regularisation of staff benefits.
60. He reported that a paper had been presented and endorsed by RemCo on 9 September. It had then been sent to the OLC Accounting Officer for advice and comment. It was noted that the paper could not be finalised until the Accounting Officer advice had been received. Once the advice was received, it was agreed that further communication would take place outside the Board schedule.

Item 12 – OLC Forward Plan

61. Discussion took place on the OLC forward plan. The OLC Chair reported that it was important to set the forward agenda. It was agreed that the executive would review the Forward Plan to ensure it captured all the key areas for the year ahead.

ACTION:

- **The executive to review the Forward Plan to ensure it captured all the key areas for the year ahead.**

62. Members noted that the 2016 committee dates had been set, with six weekly meetings.

63. The OLC Chair reported that a Board Strategy session needed to be scheduled. It was noted that this would be confirmed shortly. It was suggested that either the December or January board date would potentially suit as the dates were confirmed in Board members' diaries.

ACTION:

- **The Board Secretary to confirm a date for the Board Strategy session.**

Item 13 – Any Other Business

64. The ARAC Chair reported that it had been agreed at the July ARAC meeting that he write to the OLC Accounting Officer to raise the committee's concern about three issues; the request for a commercial bank account; the issues the financial transaction limits were causing and capital budget expenditure. It was noted that Ursula Brennan had retired and the OLC Accounting Officer was now Catherine Lee. It was agreed that the ARAC Chair would update members once a response was received.

ACTION:

- **The ARAC Chair to update members when a response to his letter was received from the OLC Accounting Officer.**

65. The ARAC Chair updated members on the engagement of an independent tax specialist to provide advice regarding potential benefit in kind payments.

66. Members noted that this would be the last meeting for the interim Chief Executive. The permanent Chief Executive would attend the October OLC Board, although the interim Chief Executive would remain with the organisation to ensure a smooth handover to the end of October.

Next meeting

67. The next OLC meeting would be held on Tuesday 20 October in Birmingham.