

**Minutes of the Sixty-Eighth Meeting of the**

**Office for Legal Complaints (OLC)**

**Wednesday 9 December 2015**

**10:00 – 16:30 pm**

**Legal Ombudsman, Birmingham**

**Present:**

Steve Green, Chair  
Catherine Lee, OLC Accounting Officer  
Caroline Coates, member  
Bernard Herdan, member  
Michael Kaltz, member  
Tony King, member  
Jane McCall, member

**In attendance:**

Nick Hawkins, Chief Executive  
Kathryn King, interim Chief Ombudsman  
Paul Partridge, Interim Director of Corporate Services  
Kathryn Stone, Chief Ombudsman (designate)  
Nikki Greenway, IT Manager (*item 7 only*)  
Emma Cartwright, Finance Manager (*item 8 only*)  
Angeline Burton, interim Head of Policy and Communications (*item 12 only*)  
Sir Michael Pitt, Chair, Legal Services Board (*items 9 and 10 only*)  
Richard Moriarty, CEO, Legal Services Board (*items 9 and 10 only*)

**Apologies:**

Professor Philip Plowden, member

**Observing (for all items except Items 1 and 10):**

Matthew Dixon, Staff Observer

**Board Secretary:**

Helen White

**Preliminary issues:**

The Board meeting was quorate.

**Item 1 – Benefits Regularisation**

1. This item was discussed in closed session.

## **Item 2 - Welcome and apologies**

2. The Chair welcomed the Accounting Officer, Catherine Lee, to the meeting and also noted the apologies received from Prof Plowden.
3. The Chair welcomed one staff observer, Matthew Dixon. The Chair reminded members that during the six month staff observer trial period, staff observer attendance was alternating between one and two observers. Matt was asked to feedback to the Chair on his thoughts and observations on being the single observer.
4. 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.
5. Staff attendees made a general declaration of interest for discussions related to Item 1.

## **Item 3 - Minutes of the previous meeting**

6. The minutes of the meeting held on 20 October 2015 were approved.

## **Item 4 - Matters arising and outstanding action points**

7. Members noted those items where actions had been completed and those that were included as agenda items.
8. The interim Director of Corporate Services reported that whilst a full review of disaster recovery options was being undertaken, the interim solution did not present any risks to the organisation.
9. The ESRO research findings will be discussed at the January meeting.

### **ACTION:**

- **The interim Chief Ombudsman to present a paper to the January OLC Board on the findings from the ESRO research.**

## **Item 5 - Comments received regarding items presented for information**

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

## **Chief Executive's Report**

11. The Chief Executive has been granted temporary financial delegation. The OLC Accounting Officer needs to confirm this delegation.

**ACTION:**

- **The OLC Accounting Officer to confirm the financial delegation granted to the OLC Chief Executive.**

12. Members raised concern at the effect the MoJ spending restrictions were having on the OLC's ability to progress research projects to inform the profession. It was noted that business cases would be needed for research and this would be one of the priorities for the new Head of PRC, Customer Engagement and Quality, once appointed.

13. The OLC Accounting Officer reported that business cases for front line recruitment could be approved by an MoJ Director General, whereas business cases for non-front line recruitment were reviewed by the lead NED for the Ministry. It was noted that there were certain non-front line posts which were identified as necessary in the Governance Review Report. It was agreed that, for these positions, it would be necessary for the OLC Accounting Officer and CEO to personally brief the MoJ NED.

**ACTION:**

- **The Chief Executive to work with the OLC AO's office to agree a date to present the non-front line recruitment business case to the lead NED for the Ministry.**

14. It was noted that the business case for front line recruitment would be submitted to the MoJ by the end of the week. The executive thanked the OLC Accounting Officer and her deputy for the prompt approval of the business case for recruitment to key IT roles.

### **Interim Chief Ombudsman's Report**

15. It was agreed that once there was clarity on the ombudsman pool, the interim Chief Ombudsman would produce a timeline for the impact the ombudsman pool would have on the ombudsman work in progress.

**ACTION:**

- **The interim Chief Ombudsman to produce a timeline for the impact the ombudsman pool would have on the ombudsman work in progress.**

16. The interim Chief Ombudsman confirmed that it was now a requirement for all evidence relied upon in an investigation ordinarily to be shared with all parties. This had not been a requirement before the interim Chief Ombudsman's arrival in 2014, and rigorous quality checks were being undertaken to ensure this was taking place. It was noted that work was continuing to improve the IT system to assist in the creation of electronic evidence "bundles".

### **Interim Director of Corporate Services Report**

17. It was noted that the tender had been issued for the case management system service provision. A further update would be provided in the IT Update (item 7).
18. Discussion took place on the provisional 2016/17 budget. It was noted the interim Director of Corporate Services was working with Policy and Communications on the draft budget consultation.
19. Discussion took place on the projected volumes for the forthcoming year. The CMC jurisdiction has seen an increase in work. The legal jurisdiction had seen a fall in volumes although this decline appeared to be stabilising.

### **Finance Report**

20. Members noted the Finance Report, in particular the revised forecast to the end of the financial year.

### **Monthly Performance Report**

21. Discussion took place on the monthly performance report and in particular the requirements under Section 120 of the Legal Services Act for the OLC to provide relevant performance information on a monthly basis to the LSB. Discussion is continuing with the LSB about whether this requirement would continue after April 2016.
22. The Board's quarterly review of performance will be held in January.

### **Board Member Expenses**

23. Members noted the board member expenses report for Q2 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 Q2 2015/16 on the external website as part of the LeO publication scheme.**

### **Item 6 – RemCo Update**

24. The RemCo Chair updated members on the RemCo meeting held on 10 November 2015.
25. Caroline Coates reported that she had attended a recent Staff Council meeting which she had found very informative.

## Item 7 – IT Update

26. Nikki Greenway, Head of IT, joined the meeting. Discussion took place on the current high level of P1 incidents. Members questioned whether the system performance had improved or whether downtime and problems had worsened. It was noted that the current system issues occurred at particular times of the day, and had similar symptoms. The supplier had already put in further monitoring to identify the root cause.
27. Discussion took place on the stability issues. The Head of IT reported that there were a number of 'bolt on' components within the system which could be causing the issues. She reported that the supplier had already started implementing an infrastructure strengthening plan and had agreed to undertake a review of the interfaces and integration between system components.
28. The Board noted that issues continued with the rollout of the portal and that the supplier had now secured subcontractor resource to address this. Both the portal pilot go live and the upgrade to CRM 2015 would take place in the second half of January.
29. Discussion took place on the tender to procure a new provider for the case management system support, which was being undertaken via G-Cloud. Lessons learned from the previous procurement were being used to formulate and inform the new tender process. Members noted that the Chief Executive would be sitting on the procurement panel.
30. [Redacted] [FOIA exempt s43(2)]
31. [Redacted] [FOIA exempt s43(2)]
32. Members thanked the Head of IT for her report and noted that the executive were working as skilfully and diligently as possible on the immediate actions that were needed.
33. Members requested that the interim Director of Corporate Services provide a progress update in his January report.

### **ACTION:**

- **The interim Director of Corporate Services to provide a progress update in his January report.**

34. Nikki Greenway, Head of IT, to present an update to the March OLC Board meeting.

**ACTION:**

- **The Head of IT to present an update to the March OLC Board meeting.**

**Item 8 – Corporate Risk Register**

35. Emma Cartwright, Finance Manager, joined the meeting to present the new format risk register. Discussion took place on the review process. It was noted that the register was discussed monthly by the management team. The OLC Board would review the register every six months and ARAC would have a standing item at each ARAC meeting, with particular risks being reviewed on a cyclical basis.

36. Members requested that the executive review the controls and include a more robust summary.

**ACTION:**

- **The Finance Manager to review the controls and include a more robust summary.**

37. It was agreed that the new format was more recognisable to members and allied with the approach used within the MoJ. Members thanked the Finance Manager for the work undertaken to revise the register.

**Item 9 – Legal Services Board Presentation**

38. The OLC Chair welcomed Sir Michael Pitt and Richard Moriarty to the meeting. Discussion took place on a recent meeting with the Lord Chancellor where the LSB were urged to look at what more they could do to progress deregularisation for front line providers.

39. Discussion took place on the HM Treasury document 'A Better Deal', and in particular the Government's aim to *'launch a consultation by spring 2016 on removing barriers to entry for alternative business models in legal services, and on making legal services regulators independent from their respective bodies'*.

40. Discussion took place on the review of governance. It was agreed that both the LSB and OLC should focus at board level on governance whilst also working towards the development of a tripartite memorandum of understanding for the OLC, LSB and MoJ. The OLC Chair agreed that a tripartite MOU would provide clarity and accountability.

41. Discussion took place on Section 120 requirements. The LSB Chair reported that the LSB Board were reviewing whether to withdraw this requirement in March 2016, but in order to do this, the OLC would need to evidence an improvement in performance.
42. It was agreed that the LSB and OLC would continue to collaborate to inform the profession.
43. It was noted that the Board Secretary would schedule LSB attendance at OLC Board meetings in 2016.

**ACTION:**

- **The Board Secretary to schedule LSB attendance at OLC Board meetings.**

**Item 10 – Governance Review**

44. The Chief Executive outlined the key actions required to progress the recommendations in the governance review.
45. Discussion took place on the option of undertaking a 'gateway review' in 3-6 months' time and in particular the need for this review to be independent. It was agreed that the Chief Executive would table a paper outlining options and principles.

**ACTION:**

- **The Chief Executive to outline options and principles for undertaking a 'gateway review'.**

46. It was agreed that the action plan needed to include a timeline and a priority rating for actions.

**ACTION:**

- **The Chief Executive to include a timeline and priority rating in the action plan.**

47. The OLC AO requested that the executive include a specific update in the action plan on the perceived issue of speed sacrificing quality. It was important that this be reflected in the action plan and the executive note actions taken to address this.
48. It was agreed to delegate finalisation of the action plan to the Chief Executive, OLC Chair and Chairs of ARAC and RemCo.
49. It was agreed that a three way meeting would take place to agree a way of implementing actions not specific to the OLC.

50. The Board agreed to delegate authority to the Chief Executive to submit such business cases to create new roles as identified in the governance review.

**ACTION:**

- **The executive to include a specific update in the action plan on the perceived issue of speed sacrificing quality.**
- **The Board delegated approval to finalise the action plan to the Chief Executive, OLC Chair and Chairs of ARAC and RemCo.**
- **The Board delegated approval to the Chief Executive to submit such business cases to create new roles as identified in the governance review report.**

**Item 11 – EU ADR**

51. The interim Chief Ombudsman outlined the decision the Board were being requested to take, the context and the key points raised in the representations received in response to the ADR consultation.

52. The risks and benefits to the organisation, to consumers and to the legal sector of becoming, and not becoming an ADR entity at this stage were also discussed. The changes that would be required to the internal business process and their potential to impact on organisational performance were explored.

53. After careful consideration, the Board agreed not to submit an application to become an ADR entity nor to change the scheme rules at this stage. The interim Chief Ombudsman would explore the options for offering new ‘alternative’ dispute resolution services which would be presented back to the Board in six months’ time. This reflected options C and D in the proposals paper.

**ACTION:**

- **The interim Chief Ombudsman to note that a review would be undertaken in six months’ time of the decision not to proceed with the proposal to become an ADR entity.**

54. It was agreed that work would be undertaken to explore whether there was an alternative approach to operating as an ADR entity, such as introducing a parallel scheme or offering new ‘alternative’ dispute resolution services which better mitigate the risk and issues identified.

55. The Board also agreed that to ensure consumers continued to be allowed fair access to the OLC’s statutory scheme, it supported the recommendation that complaints which had already been considered by an ADR entity and were otherwise within the jurisdiction of the Legal Ombudsman scheme, would ordinarily be allowed into the scheme.



**56.** It was agreed that the interim Head of Policy and Communications would work jointly with the LSB on the communications plan for announcing these decisions. She would also ensure the MoJ were informed of the communication strategy. It was agreed to delegate approval of the stakeholder communications to the OLC Chair and Tony King.

#### **Item 12 – Quarterly Review of Strategic Priorities**

**57.** The interim Head of Policy and Communications joined the meeting to update members on the quarterly review of strategic priorities.

#### **Item 13 – Draft Report and Accounts**

**58.** Discussion was held on the timetable for the finalisation of the 2014/15 Annual Report and Accounts.

**59.** Members agreed to delegate authority to the OLC Chair and the ARAC Chair to approve changes to the draft accounts and to approve the final accounts on behalf of the OLC.

#### **Item 14 – Any Other Business**

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

#### **Next meeting**

**61.** The next OLC meeting would be held on 26 January in Birmingham.