

<b>Meeting</b>	OLC Board Meeting	<b>Agenda Item No. Paper No.</b>	9 92.8
<b>Date of meeting</b>	10 December 2018	<b>Time required</b>	15 Minutes

<i>Title</i>	<b>OLC Governance</b>
<i>Sponsor</i>	Rob Powell, Chief Executive
<i>Status</i>	OFFICIAL
<i>To be communicated to:</i>	Members and those in attendance

<b>Executive summary</b>
<p>This paper sets out a number of minor changes to OLC governance for approval. These are:</p> <ol style="list-style-type: none"> <li>1. minor changes to the scheme of delegation (changes tracked in <b>Appendix 1</b>) to reflect changes in job titles and clarification of approvals for suspension, dismissal or termination of individual employees;</li> <li>2. a proposal to change the schedule of matters reserved to the Board (changes tracked in <b>Appendix 2</b>) to more clearly align decisions about the dismissal of Ombudsman with the Legal Services Act (more detail is provided on this issue in <b>Appendix 3</b>, which has been circulated under legal privilege);</li> <li>3. a small change to the OLC operating framework to deal with complaints about OLC members, and proposals for such complaints to be handled under an LSB policy (available at <b>Appendix 4</b>); and</li> <li>4. an update on proposals to handle complaints about the conduct of senior members of LeO staff.</li> </ol>
<b>Recommendation/action required</b>
Board is asked to <b>APPROVE</b> the changes proposed in this paper.

10 December 2018

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## OLC governance issues

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### 1. Introduction

This paper sets out proposals to make a number of minor changes in the OLC governance framework.

### 2. Scheme of delegation

We have reviewed the OLC Scheme of Delegation against the MoJ delegations and a number of minor points picked up through feedback from colleagues. The Scheme of Delegations is working effectively and is well embedded into the organisation.

The proposed changes are tracked in **Appendix 1**, and in summary are:

- updated role titles to reflect the new Head Ombudsman roles and the Legal Manager role;
- additional rows 18 and 19 to cover the Celebrating Success reward and recognition scheme recently introduced; and
- an update to rows 20-26 to:
  - clarify that approval for suspension, dismissal or termination of individual employees is either by the CEO for non-operational staff or by the Chief Ombudsman for operational staff unless the action relates to the CEO or Chief Ombudsman, which is a matter reserved to Board; the previous wording was potentially confusing in suggesting that both the CEO and Chief Ombudsman both needed to approve such decisions;
  - we have also proposed that recommendations to dismiss an Ombudsman other than the Chief Ombudsman should now be decided by the Chief Ombudsman without the need for OLC approval, as explained in Section 3 below.

### 3. Schedule of matters reserved to the Board

In reviewing various elements of corporate governance, we are also recommending a minor change to the schedule of matters reserved to Board (tracked changes available in **Appendix 2**). Currently, this requires Board to approve the 'appointment or dismissal of other ombudsmen to assist in the performance of the OLC's functions'.

This is problematic for two reasons:

1. firstly, the new organisational structure involves more than 20 pool ombudsmen, and 30 Level 1 Ombudsmen in addition to the core Level 2 Ombudsmen. It is disproportionate for the OLC Board to approve all decisions to dismiss such a wide cohort of staff; and

2. secondly, the wording of the Act which in Section 122 states that ‘the OLC may, with the consent of the Chief Ombudsman, appoint one or more other persons to act as assistant ombudsmen for these purposes’; as the Act is silent about Board decisions on dismissing Ombudsman, we consider it disproportionate for the OLC Board to be involved in personnel decisions about dismissal of Ombudsmen.

We are requesting Board approval to amend the schedule of matters reserved to Board to amend the wording “appointment or dismissal of other ombudsmen to assist in the performance of the OLC’s functions” to read:

“approving, with the Chief Ombudsman’s consent, the appointment of other ombudsmen to assist in the performance of the OLC’s functions.”

The proposal sets the issue of dismissal firmly in the context of the impact on the scheme independence and the delegated authority from the Chief Ombudsman within scheme and adopts an approach that is consistent with both the spirit and letter of the Act.

Historic custom and practice related to concerns at the time about very senior ombudsmen being dismissed over disagreements around decision making, but our HR and governance is now sufficiently robust to respond to any allegations of unfair dismissal in an appropriate way and matters around employment status should be dealt with consistently across the organisation. Further background on this issue is summarised in **Appendix 3**.

#### 4. OLC operating framework

The OLC operating framework states:

“Complaints from service providers and the public - the OLC will ensure that LeO has a published policy for the handling of complaints about the Chief Ombudsman, the Chief Executive and members of Legal Ombudsman staff. Complaints about the OLC members, including the Chair will be dealt with under the separate LSB complaints policy.”

In terms of OLC members, we recommend that any complaints about their conduct should be handled under the LSB’s External Allegations policy (**Appendix 4**).

We are proposing to make a minor change to the OLC Operating Framework to remove references to the Chief Ombudsman, Chief Executive and members of Legal Ombudsman staff. We propose that the text set out in the paragraph above will read:

“Complaints from service providers and the public - the OLC will ensure that it has a policy for handling complaints about the Legal Ombudsman’s service, and published arrangements about how to complain.”

We already have a number of policies for investigating issues of conduct - investigations, fraud, bribery and corruption and whistleblowing policies - and do not feel we need a

separate policy about external allegations about the conduct of senior staff. By senior staff, we mean members of the Legal Ombudsman's Management Team.

We intend to amend the LeO website to make clear that all complaints, whether about service or conduct of senior staff, should initially be submitted via the email address for our Customer Experience Specialist. Any allegation about the individual conduct of a senior manager will immediately be referred either to HR or our Legal Manager

The website will also clarify that the Chief Executive, heads of corporate functions and Board are unable to involve themselves in complaints about individual cases or Ombudsman decisions which are the independent statutory preserve of the Chief Ombudsman.

We will develop an internal flow chart to handle any such allegations and agree this through the Management Team.

## 5. Next steps

Subject to the OLC's approval of the proposed changes to the Scheme of Delegation, schedule of matters reserved to Board and OLC Operating Framework, we will:

- amend the Scheme of Delegation, schedule of matters reserved to Board and Operating Framework, and publish internally and externally;
- update the website with details of how to complain about either service or conduct of members of the Management Team; and
- develop internal guidance and a process flow to handle any external allegations about members of LeO's Management Team.