

**Minutes of the second meeting**

**Office for Legal Complaints (OLC) Board**

**Tuesday 8 September 2009**

**10.30am – 2.00pm**

**Victoria House, Southampton Row, London, WC1B 4AD**

**Present:**

Elizabeth France, Chair  
Rosemary Carter, member  
Margaret Doyle, member  
Professor Mary Seneviratne, member  
David Thomas, member

**Apologies:**

Tony Foster, member  
Brian Woods-Scawen, member

**In attendance:**

Adam Sampson, Chief Ombudsman  
Nyall Farrell, Interim Chief Operating Officer  
Liz Shepherd, Interim Programme Director

**Secretary:**

Alison Robinson, Policy Manager

**Item 1 – Welcome and apologies**

1. The Chair welcomed the Board and thanked them for agreeing to an early September meeting.
2. Members noted that Brian Woods-Scawen and Tony Foster had sent apologies but had provided written comments on the papers to inform discussion and decision making at the meeting.

**Item 2 – Minutes**

3. The minutes of 13 July 2009 meeting were approved.

**Item 3 - Matters arising**

4. The progress against action points was noted.
5. The arrangements for securing approval for any spend over the summer had only been required on two occasions. Given that it was the ongoing role of the Board to oversee

financial matters, the meeting agreed that the Chair of the Board and the executive would, in consultation with the Chair of the Audit Committee, look again at what the appropriate governance arrangements regarding finance and financial reporting might be for this start up period. This would be considered at the next Board meeting.

6. Members noted that property visits had taken place as planned in August. A shortlist of buildings had been compiled against the criteria agreed by the Board. The Chief Operating Officer reported that Government officials consulted had expressed satisfaction with the process undertaken. The next steps were to appoint property agents to commence negotiations and then finalise the process for sign off with Ministers.
7. It is currently expected that a temporary office will be available in the West Midlands in late October or early November. The meeting noted that this move would be a first step in establishing an independent identity for the Office for Legal Complaints. The meeting also noted its thanks for the Legal Services Board hosting the nascent OLC and for their offer of ongoing practical support through use of desk space and meetings rooms if the OLC required the occasional London base.
8. The meeting agreed that, in advance of applying for full membership of the British and Irish Ombudsman Association that the OLC should apply for associate membership. This would allow it to stay in touch with current thinking and developments in the ombudsman sector.
9. The Chair indicated that she would progress the setting of Board member objectives before the next meeting at the end of September.

**ACTION:**

- Chair of the Board and executive to speak to the Chair of the Audit and Risk Committee to agree financial governance arrangements for the start up period and report to the Board at its next meeting.
- Executive to apply for associate member status with the British and Irish Ombudsman Association (BIOA).
- Chair to correspond with Board members on objectives before the next meeting at the end of September.

**Item 4 – Chair’s update**

10. The Chair reported that she and the Chief Ombudsman had continued to meet a range of stakeholders. This included a meeting with the President of the Law Society and Law Society officials. She reported that the meeting had been a useful opportunity to air the Board’s expectation that there would be a constructive dialogue and working relationship between the Office for Legal Complaints and the Law Society to manage any transitional issues that arose from the start up of the OLC and the wind down of existing complaints handling mechanics. It had also been a useful opportunity to gain a sense of the Law Society’s current thinking.
11. The Chair also reported that she was aware of the current governance discussions between the Law Society and the Legal Complaints Service. As the OLC is keen to hear views from all stakeholders, a meeting had also been arranged with the Chair of the Board of the Legal Complaints Service in October.
12. The Chair also reported that she had attended a half day strategy and planning session with the Legal Services Board. It had been a useful chance to get a sense of the future work of the LSB and to cement the OLC/ LSB relationship. The LSB remains keen to

have a light touch role in relation to the OLC, noting that a future discussion about service standards is required.

13. The meeting also noted that Dianne Hayter had been appointed as Chair of the Consumer Panel.

#### **Item 5 – Chief Ombudsman’s report**

14. The Chief Ombudsman advised that the set up process remained on track, currently moving out of a design phase into the implementation phase of the project. The meeting noted that IT remained the area of greatest risk, with the procurement process taking longer than had been hoped. Despite this, the IT work stream remains on track and with some contingency left in the planning assumptions.
15. The meeting noted that a Board Secretary had been appointed and was due to start with the OLC later in the autumn. A process to recruit a Head of Human Resources was currently underway and was expected to conclude in the coming week. The process to appoint HR consultants was also nearly complete with prices having been re-negotiated to more acceptable levels and the final stage of the selection process scheduled in the coming week. There had also been some staff turnover in the implementation team, with two new team members, Lisa Webster and Patricia Ashwood, providing much needed support while the OLC continued to be based in London.
16. The Chief Ombudsman noted the response to the informal consultation on the scheme rules had been heartening, with a lot of useful feedback which has informed the paper that the Board would consider later in the meeting.
17. Finally, the Chief Ombudsman indicated that the OLC and LSB are beginning some focused discussion about their relationship and future performance reporting. The meeting agreed that there would be a need to balance premature reporting on performance before the Ombudsman scheme is in steady state with a need to put in place the framework for our future relationship with the LSB.
18. The meeting also noted that the advertisements for the positions of Deputy Chief Ombudsman and Ombudsmen had been advertised in the Sunday Times.

#### **Item 6 – Ratification of decisions**

19. Members noted that before the meeting could consider the paper presented it needed to clarify the issue of quorum for the meeting. The meeting noted that two of its lay members were not present but had provided detailed written comments and their views on this, and other papers. The meeting noted that the Act allowed the Board to set its own quorum, taking into account the need for a lay majority on the Board. Members asked for a paper on this at the next meeting.
20. As an interim position, the meeting concluded, as both absent lay members had written to the Chair explicitly stating that they were happy for the record of ‘informal’ Board decisions to be formally ratified, the Board could proceed with discussion.
21. Members present had reviewed the table of previous ‘informal’ Board decisions and noted that there were some included that were preliminary views and that would need to be re-visited over time.
22. The Board agreed that the record of previous decisions was accurate and ratified those decisions made while it had been informally meeting. The meeting took this decision in

knowledge that the written views of the two absent lay members supported the ratification of these decisions.

**ACTION:**

- A paper for the Board to consider and set quorum to be prepared for the next Board meeting.

**Item 7 – Transition planning**

23. The meeting considered the issues involved in planning the transition period involving the Ombudsman scheme opening and existing complaints bodies winding down. Members reiterated that they wished to see careful planning in place to make sure the transition period is managed as smoothly as possible, with the key success factor being that consumers understand where they may go to access redress and are not confused during this period of change.
24. Members discussed the range of options available to managing this issue. They noted that some options could involve a slower uptake of work for the Ombudsman scheme but were likely to be more confusing for consumers. After careful discussion the meeting agreed that having one clear date after which the Ombudsman scheme would accept all complaints was a useful starting point for discussions with other stakeholders. The benefits of this option are that it is most likely to enable existing complaints handling bodies to wind down quickly and would also be the least confusing option for consumers. After a specified date later in 2010, the Ombudsman scheme would accept all complaints that had not previously been raised or considered by an existing complaints handling body.
25. Members noted that this option placed greater risk on the IT work stream as there would be a sharper uptake of work under this model and so no time for trial during a slower build up to full capacity.
26. During discussion the meeting also noted that it was important that the profession was also not confused about the transition planning arrangements. This led to a discussion about in-house complaints handling rules across the legal profession. Members considered it was crucial that, by the time the OLC was launched, it would be possible to set out principles for in-house complaints handling that were common to all of those in jurisdiction (even if the rules differed). Members also noted it looked forward to further conversations with the LSB in this area.

**ACTION:**

- Implementation team to compare the different requirements for in-house complaints handling set by each of the Approved Regulators.

**Item 8 – Draft Business Plan**

27. The meeting considered the first draft of a business plan, noting that it required more detailed budget information both for the implementation phase and for when the Ombudsman scheme is up and running. The document was intended to focus on the process required to successfully deliver the Ombudsman scheme. The meeting noted that this would be provided with a further refined draft of the text for consideration at 28 September meeting. The Chief Ombudsman invited comments on this draft which members agreed to provide outside of the meeting.

28. The meeting complimented the executive on an excellent draft, making some suggestions about presentation. Members also agreed it would be useful to include in the draft some timetable for the OLC developing its service standards, noting it was too early to commit to specific performance targets at this stage.
29. It also agreed that a further, more refined draft should be shared with the LSB and the Ministry of Justice prior to the final business plan being published for public consultation later in September or very early October. The LSB would consider the revised plan more formally at its Board meeting in September.
30. Members noted that this plan would cover the period of implementation and the first few months of running of the Ombudsman scheme. The next plan would be developed for the period April 2011 to March 2012 and would look like a more traditional business plan.

## **ACTION**

- Members would provide the Chief Ombudsman with any specific comments on the draft business plan. The revised version of the plan would then be re-circulated to members.
- A revised version of the plan would be circulated to the LSB and Ministry of Justice.
- A revised version of the plan including budget information would be considered by the Board at its meeting on 28 September with the aim of publishing the plan for formal consultation soon after that meeting.

## **Item 9 – Scheme rules**

31. The meeting noted that overall the response to the discussion draft of the scheme rules had been positive. There seemed, so far, to be a consensus that the style and structure of the rules put in place a good framework to make sure the Ombudsman scheme has a clear basis and remit while not stifling the scheme in too much formality. A range of written comments had been received from consumer groups as well as from different parts of the profession. Members asked for the summary of the discussion forums and written responses to be circulated for information.
32. The meeting asked the implementation team to seek proactively to engage with advice giving organisation, the not-for-profit sector and consumer groups in the formal consultation stage.
33. Members noted that there were a few common areas of concern in the currently drafted scheme rules and the OLC had been questioned about the tight turnaround times and whether it would be able to – or wanted to - listen and change the rules in response to comments and views. This is an area that is likely to remain as a concern. To meet Ministry of Justice timetables at the end of the year, there will be another very tight turnaround from the end of the formal consultation stage to the approval of the scheme rules and requesting the Lord Chancellor to make any Orders. Members agreed that the best way of allaying these concerns was to demonstrate that the OLC can meet these tight deadlines and incorporate changes that come from feedback received and which serve to make the scheme rules a stronger framework.
34. The area of common concern was in relation to the proposed time limits in paragraph 4.5 of the discussion draft of the scheme rules. A proposal was made to amend the rules to substitute a twelve month limit from the point a person realises there is a problem, the same formulation used by the Local Government Ombudsman and tOSI. This change answers concerns about the long timeframes which were of practical concern to many

stakeholders, and also reflects the current practice of ombudsman schemes. David Thomas agreed to draft a new clause to include in the scheme rules.

35. The meeting noted that consumer groups had not objected to the shorter timescales during the discussion forums. There seems to be agreement with the idea that was reasonable to expect people to bring a complaint quickly, and any potential disadvantage or unfairness could be dealt with by proper use of the ombudsman's discretion. Members asked that the consultation covering paper be re-drafted to include a fuller outline of these concerns and the Board's thinking in amending this section of the rules for consultation.
36. The meeting also agreed that, picking up on feedback from the discussion forums, the revised draft rules would be extended to include clubs/ societies and associations, to make sure small non-incorporated entities as well as micro-enterprises were captured, in the chapter setting out who can make a complaint.
37. Members also agreed that the proposed eight week timeframe for in-house complaints handling would remain the same in the next draft. There were some concerns that for sole practitioners this deadline could be tight (twelve weeks was mooted as an option). Balancing this were voices strongly saying that from a consumer perspective the jump from eight to twelve weeks would make it too long a period of time to wait. The Board concluded that looked forward to hearing further views on this during the consultation period.
38. The meeting agreed that the formal consultation draft of the scheme rules would be published on 15 September 2009 to allow a full three month consultation period before the OLC and the LSB considered the rules for approval and any submissions to the Lord Chancellor in early January. It also agreed that this draft of the rules would not include any numbers in reference to case fees. Members agreed that it was good practice and a proper response to issues raised about a possible disproportionate impact on some lawyers, to require an impact assessment to accompany proposals on case fees. The implementation team advised this process had been started, with the help of the Ministry of Justice. The meeting agreed that the proposed case fee amounts would be published alongside the business plan, together with a draft impact assessment, later in September or very early in October. This would allow the financial impact of case fees and the interrelationship between case fees and the levy to be presented in the context of the business plan and overall budget.
39. Members asked that a paper including the different options for case fees be submitted for consideration at the next Board meeting along with a draft consultation paper and the draft impact assessment that will accompany the paper.

## **ACTION**

- Members asked for the summary of the discussion forums and written responses to be circulated for information.
- The implementation team to seek to proactively engage with advice giving organisation, the not-for-profit sector and consumer groups in the formal consultation stage.
- David Thomas to draft a new clause setting out the changed timescales to being a complaint to include in the next draft of the scheme rules.
- The draft scheme rules and draft covering paper for the consultation to be revised and circulated to members in the next day or so for comments and approval.

- The public consultation for the scheme rules to commence on 15 September with the publication of the next draft of the scheme rules.
- A paper including the different options for case fees to be submitted for consideration at the next Board meeting along with a draft consultation paper and the draft impact assessment.

### **Item 10 – Finance report**

40. The Chief Operating Officer introduced the finance report, asking for comments on its structure and format as this was the first finance report that the Board had received. He also noted that he was still in the process of finally setting in place agreed procedures with the Ministry of Justice, though this was on track. Additionally, he reported accounting and sign off processes were in place and working well.
41. Members asked about the position in relation to VAT. The Chief Operating Officer advised that this was one area that was the focus of the ongoing discussions with the Ministry of Justice and that the Board would be informed when the position was clarified.
42. Members asked for some clarification about the figures in the report. The Chief Operating Officer responded to each query and agreed to consider the reporting format for the next meeting. The meeting formally noted the content of the report and indicated that overall it was at the appropriate level of detail.

### **Item 11 – Committee meetings**

43. Members noted the minutes of the Audit and Risk Committee meeting of 22 June 2009.
44. The Chair of the Remuneration Committee reported that the Remuneration and Nomination Committee had met once informally as a preparatory meeting and once formally. At its first formal meeting it had focused on identifying key tasks and milestones in the set up phase. At this meeting, appointing a Head of Human Resources was identified as a priority for the new organisation, along with HR consultancy support, appointment of Ombudsmen, a Board Secretary and a Finance Manager.
45. The Chair of the Committee also reported that Terms of Reference for the Committee had been developed and she asked for feedback from the Chair of the Board before the next Committee meeting.
46. Members also noted that future meetings of the Remuneration Committee would take place as required to meet business need during the set up phase, with an eye to meeting once or twice a year once the organisation had reached steady state.

### **ACTION**

- Chair of the Board to review and comment on the Terms of Reference for the Remuneration Committee.

### **Item 12 – Future agendas and any other business**

47. Members discussed the current recruitment for the Ombudsmen positions. These are Board appointments as specified by the Act. The meeting agreed that the interview panel would include the Chair of the Board with a lay member and lawyer member, ensuring a lay majority on the panel. Members were asked to indicate their availability to the implementation team.

48. The meeting agreed that once the Office for Legal Complaints had moved to the West Midlands it would hold future Board meetings in the OLC offices. Times of meetings would be set to avoid the necessity for members to stay overnight. Members were asked to advise the Board Secretary of travel times to make this possible.

49. The meeting agreed that agenda items at the next meeting would include a paper on case fees, a paper proposing options for quorum for the Board and a revised business plan with budget information.

#### **ACTION**

- Members to indicate their availability to the implementation team.
- Members to advise the Board Secretary of travel times to plan for future Board meetings in the West Midlands.

#### **Date of next meeting**

50. The next meeting currently scheduled is for 28 September 2009 at 10.00am.

**Alison Robinson**

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