

**Minutes of the thirty fourth meeting of the**

**Office for Legal Complaints (OLC)**

**Wednesday 25 April 2012**

**10.30am – 13.00pm**

**Victoria House, Southampton Row, London**

*The OLC meeting was followed by a joint meeting with the Legal Services Board. A copy of the minutes of the joint meeting appears in Annex A.*

**Present:**

Elizabeth France, Chair  
Tony Foster, member  
Professor Mary Seneviratne, member  
Rosemary Carter, member  
David Thomas, member  
Margaret Doyle, member  
Karen Silcock, member  
Maureen Vevers, member

**In attendance:**

Adam Sampson, Chief Ombudsman  
Rob Hezel, Director of Finance and Business Services  
Liz Shepherd, Director of Operations  
Alison Robinson, Head of Policy and Communications  
Walter Merricks, Service Complaint Adjudicator (item 11)

**Apologies:**

None

**Board Secretary:**

Andy Taylor

**Preliminary issues:**

The quorum requirements for the Board meeting were met.

There were no declarations of interest.

**Item 1 – Welcome and apologies**

1. The Chair welcomed those in attendance.

## **Item 2 – Minutes of previous meeting**

2. The minutes of the meeting of 19 March 2012 were approved for publication.

### **ACTIONS**

- The Secretary to publish the approved minutes of the meeting held on 19 March 2012.

## **Item 3 – Matters arising & action points**

3. Members noted those items where action had been completed and that others were included as agenda items. No further comments were received.
4. The Chief Ombudsman updated members following his recent meeting with the outgoing Chief Executive of the Scottish Legal Complaints Commission (SLCC).
5. Members were asked to provide the Board Secretary as soon as possible with details of any ongoing issues when accessing the LeO intranet.

### **ACTIONS**

- Members to inform the Board Secretary of any ongoing IT issues in respect of accessing the LeO intranet.

## **Item 4 – Comments received regarding items presented for information.**

6. The items presented for information were noted. No comments were received in advance of the meeting for circulation.
7. The Chief Ombudsman provided an update on developments in respect of Claims Management Companies, saying that it appeared that the Regulatory Policy Committee did not need to consider the proposal. The timetable to 'switch on' LeO's powers under the Legal Services Act 2007 was being reviewed in view of this new information.
8. David Thomas reported on a constructive meeting in respect of voluntary jurisdictions which had taken place, involving the Ministry of Justice, LSB and LeO. The Chief Ombudsman confirmed that work continues with the LSB in respect of planning and modelling.
9. Members were advised that the Chief Ombudsman and Chief Executive of the LSB had met Abigail Plenty. Further quarterly meetings had been agreed to discuss future work plans involving LeO, the LSB and the Ministry of Justice.

10. The Chief Ombudsman's monthly report was presented and the decline in proportion of contacts received in the Assessment Centre which became investigations within the Resolution Centre was discussed. The Director of Operations advised members this was being reviewed and an update would be provided at the next meeting.
11. The quarterly registers of hospitality and expenses were noted and approved for publication on the LeO website.
12. Members discussed the KPI report, in particular noting the pressure on achieving the cost per case target in view of the continued downturn in the number of new cases. Particular concern was expressed about the higher than planned volume of cases referred to the ombudsman team and the resultant wait for ombudsman decisions.

The Executive acknowledged the waiting times for decisions were not yet diminishing; although additional resource had been provided, this was taking time to deploy. Although incoming volumes of cases for decision were difficult to control, individual ombudsman performance was being monitored, for example by weekly reports. Where appropriate, staff performance was challenged against agreed performance criteria. The Chief Ombudsman advised members a meeting with the ombudsman team had been scheduled to discuss workloads and performance. Following this, the Chair was also due to meet with the ombudsmen individually.

The Chief Ombudsman updated members in respect of the proposed review of the ombudsman team. This would investigate and report on: case demand and options available; case analysis; team resource requirements; review of ombudsman role and decision making, including training and leadership.

Members asked for the ombudsman review terms of reference to be circulated for information, making clear that this would remain a key focus for the board until there was confidence that the steps taken had had the necessary effect. There should be a dedicated agenda item at all meetings until then.

13. It was noted that the quality information in respect of the ombudsman team differed to other quality reports contained in the KPI document. The Director of Finance and Business Services agreed to review this before the next meeting.
14. Members noted with interest the judicial review update. In respect of one particular case, a full report was to be provided at the next meeting, setting out the circumstances and lessons to be taken forward. A number of stylistic changes were requested for future quarterly reports.

## **ACTIONS**

- The Secretary to publish the quarterly hospitality and expenses reports on the LeO website.

- The Director of Operations to update members at the next meeting with details relating to the decline in conversions between the Assessment and Resolution Centre.
- The Director of Finance and Business Services to review the ombudsman team quality reporting slides
- The Chief Ombudsman to circulate the ombudsman review terms of reference to OLC members.
- The Board Secretary to allocate dedicated time in future meetings for KPI performance discussion to take place.
- The Deputy Chief Ombudsman to provide a full report on the circumstances behind the 'conditional fee' judicial review case, setting out lessons learned.

#### **Item 5 - Update on the FOS/LeO proposal (BIS/ EU directive)**

15. Members noted the paper and agreed to provide any further comments to the Head of Policy and Communications following the meeting. Members were also advised that David Thomas had recently assisted the Ombudsman Association by helping draft a response to BIS on the EU directive relating to Alternative Dispute Resolution.

#### **ACTIONS**

- Members to provide comments in respect of the tabled paper.

#### **Item 6 - Finance report**

16. Members noted the paper which set out the year end position and were advised by the Director of Finance and Business Services that no changes were expected. Members congratulated the Executive on achieving a year end out turn in line with the agreed annual budget.

#### **Item 7 - KPI quality measures**

17. The Director of Finance and Business Services updated members on the quality review process, explaining that the independent quality team was now established with five members of staff. As quality reviews were now being undertaken independently, the Executive expected this would lead to an improvement in the consistency of data used in the monthly quality KPI performance monitoring.
18. The Chair agreed that a member should be nominated as the Board lead in respect of quality matters.

## **ACTIONS**

- The Director of Finance and Business Services to send out a full set of KPI monitoring forms.
- The Board Secretary to include time on future agendas to allow discussion of quality performance data on a quarterly basis.
- The Chair to advise the Director Finance and Business Services of a Board member who will lead on quality matters.

### **Item 8 - OLC 2011-12 annual report update**

19. A paper outlining the proposed annual report template was introduced by the Head of Policy and Communications who said that the timetable for the drafting and presentation of the Annual Report had been confirmed by the Audit and Risk Committee. A first draft of the annual report would be circulated separately and members were asked to provide comment to the Head of Policy and Communications as soon as possible.
20. Members were advised the financial data would be subject to external audit in early May and presented to the Audit and Risk Committee in line with the agreed timetable. The Chief Executive of the LSB would receive updates on developments in respect of the annual report through representative attendance at the Audit and Risk Committee papers.

### **Item 9 - Customer satisfaction survey results**

21. The comprehensive report detailing the second quarter's customer satisfaction data was received and discussed. The Head of Policy and Communications pointed out that the data related to approximately 1,000 complainants and 300 lawyers and identified a good degree of improvement on the first set of data presented in January.
22. Minor amendments to the question format were proposed in order to try and establish further information in subsequent reports.

### **Item 10 - IT update**

23. The Director of Finance and Business Services presented a paper showing a range of options available and the executive's recommendation in respect of future IT arrangements for the Legal Ombudsman. Maureen Vevers, as IT lead, had been involved in discussions and supported the proposal. Recent changes in the IT team were noted and further consideration of the approach to be taken to staffing during

the reconsideration of the strategy suggested. The recommendation proposed by the executive in the tabled paper was agreed.

#### **Item 11 - 2011-12 service complaint report**

- 24.** The Head of Compliance and Service Complaint Adjudicator jointly presented the first annual service complaint report for the period April 2011 to March 2012 inclusive. He explained that the main substance of concerns raised at earlier stages of the process often demonstrated dissatisfaction with the outcome of the lawyer complaint, without identifiable service issues.
- 25.** Members were reassured that the number of complaints received in the first full year were low and that where appropriate lessons on process had been learned. The inclusion in the report of a number of anonymised cases and compensation awards, for information purposes, was welcomed. There was also some discussion on the accessibility of the Adjudicator, and it was agreed that work should be done to improve the signposting on the website.

#### **Item 12 - Any other business**

- 26.** The Chair advised members that annual “one to one” meetings would take place during June.
- 27.** The Chair had followed up interest expressed by members in joining the Whitehall Industry Group. She had been impressed with their presentation and the range of training and development events available. However, the cost of joining could only be justified if the Learning and Development team were to meet some EMT needs through it and if each OLC members committed to attend at least one of the briefings a year. Members were invited to look at the WIG website and to let the Chair know their views.
- 28.** The next OLC meeting will be held on 21 May 2012 at Baskerville House, Birmingham.

#### **ACTIONS**

- Members to review the WIG website and let the Chair know their views.

Andy Taylor  
Board Secretary  
9 May 2012

## ANNEX A

### Minutes of a joint meeting of the Legal Services Board (LSB) and Office for Legal Complaints (OLC) held on Wednesday 25 April 2012

**Date:** 25 April 2012  
**Time:** 1.30pm to 3.00pm  
**Venue:** LSB offices, Victoria House, Southampton Row, London

**Present:**

*From the LSB:* David Edmonds (Chairman)  
Chris Kenny  
Steve Green  
Ed Nally  
Barbara Saunders  
Nicole Smith  
Andrew Whittaker  
David Wolfe

*From the OLC:* Elizabeth France, Chair  
Rosemary Carter  
Margaret Doyle  
Tony Foster  
Mary Seneviratne  
David Thomas  
Maureen Vevers

*In attendance, LSB:* Crispin Passmore  
Julie Myers  
Nick Glockling  
Holly Perry (taking notes)

*In attendance, OLC:* Adam Sampson  
Alison Robinson  
Liz Shepherd  
Rob Hezel  
Andy Taylor (taking notes)

**Apologies:** Bill Moyes, LSB  
Karen Silcock, OLC

#### **Welcome and purpose of the meeting**

1. The Chairman of the LSB welcomed colleagues to the meeting and opened by commenting that relationships between the respective bodies were good, and were strengthening continuously. LSB Members welcomed the

opportunity to discuss current issues and future challenges with the OLC.

### **Presentation by the Chief Executives**

2. The LSB Chief Executive and the Chief Ombudsman delivered a presentation giving an overview of the opportunities and challenges for legal regulation and redress over a five year timeframe, including the different methods of delivery that would be available on the back of developing technology and the different models of firms likely to be generated by ABS applications (e.g. employee share ownership, partnership, private equity). Colleagues were invited to discuss the long-term issues, short-term issues and the immediate areas for focus.
3. Points raised in discussion were as follows:
  - As well as regulation and redress, there was a need to look at what society wanted more generally, for example the balance between enterprise and regulation and whether the priority ought to be make interventions as rare as possible.
  - There was a question about the future of the professions – whether they were becoming less involved in regulatory matters and whether they were becoming ‘brands’ in their own right.
  - Organisations were certainly becoming more diverse - increased use of sub contracting meant it was becoming increasingly difficult for consumers to identify who has provided the service, which could complicate matters where redress was necessary.
  - There were questions about activity-based regulation over entity-based regulation and the role in future of – for example – complex rule books.
  - The LSB and OLC needed to work together to focus on the consumer. Ideally, all workstreams needed to flow comfortably from the consumer perspective. There was also a role to identify trends in consumer detriment.
  - The Legal Ombudsman acknowledged that what it saw was partial and indicative only, mainly comprising accidental mistakes by good providers. It was harder to identify trends in systematic failings.
  - There was a question about the extent to which providers would recognise the challenges and opportunities over the five-year time frame as presented – certainly a proportion of the profession were already thinking about how to adapt. At a more strategic level, however, debate was not taking place on the future shape of the sector.



- A question was posed about whose interests regulation was working to protect – and a need to separate the processes for handling consumer complaints and conduct issues ie the handling of individuals by their professional or regulatory body.
- Redress across the regulatory boundaries was likely to become increasingly important. The challenge was to spread the base of redress without spreading the base of regulation – with the focus on the consumer.
- The extent to which changes really would impact in a five or even ten-year time frame was queried, though there was a distinct possibility that a gap would emerge between what consumers wanted to be regulated and what was actually regulated.
- The role of social media was likely to become significant, with consumers with common concerns using the internet to band together to take action. Speed was also critical – young consumers in particular would want injustice resolving quickly and would be intolerant of authority.

4. The LSB and OLC agreed that there was an opportunity for the Boards to work collaboratively on what regulation and redress might look like in five or ten years' time, particularly on the basis that government was not in a position to do this. The focus would be on promoting public debate, with the involvement of the regulatory bodies as far as possible. Suggested themes included:

- why consumers needed protection in the legal services sector
- entity versus activity based regulation
- regulation versus deregulation (e.g. changing regulation to a form of licensing regime)
- targeting regulation on the areas of the market where most money was being made
- how legal services would be provided in the absence of legal aid – how gaps would be plugged and the role of legal education
- accessing services online and the implications for redress and regulation

5. Summary and next steps;

The Chairman of the LSB summarised the key points of the discussion and confirmed that the agreed action was for the LSB and OLC, through the Chief Executive and Chief Ombudsman, to produce a joint scope paper to inform future debate with the professions, providers and consumers in the

period leading up to the 2015 General Election.

6. The Chair of the OLC thanked the LSB for hosting the meeting and looked forward to the further work.