

Meeting	OLC Board	Agenda Item No.	2
		Paper No.	128.1
Date of meeting	20 July 2023	Time required	20 minutes

Title	Executive Report
Sponsor	Paul McFadden, Chief Ombudsman
Status	OFFICIAL

Executive summary
<p>Quarter 1 performance saw a strong start in line with closure expectations but a sharp reduction in closures in June, meaning that we have delivered a 91-case shortfall across the quarter. PAP and wait times continued to reduce aided by a reduction in the PAP and the ongoing success of early resolution in delivering swift decisions and journey times for a large proportion of LeO’s customers.</p> <p>This performance was against a backdrop of significant operational challenges including challenges with the implementation of Scheme Rules discretion checks which have come with higher-than-expected resource and time constraints and has limited the flow of opportunities for early resolution outcomes. The Executive have responded urgently to address these issues and to put in place mitigations and actions to address these which we are confident will deliver performance back within range in quarter 2.</p> <p>Attrition levels also continue to contribute to performance challenges, with overall and investigator attrition increasing in Quarter 1 and at the higher end of what we had anticipated. More broadly we continue to make progress on people strategy activities including progressing the report of pay benchmarking will help inform how we approach attraction and retention and competitiveness challenges.</p> <p>We provide a full report on new Scheme Rules implementation as we continue to monitor the impacts of the new Scheme Rules on customer experience, levels of demand and the protected characteristics of our customers.</p> <p>Performance against quality assurance metrics has dipped in Quarter 1. Although disappointing, assurance is provided on the outcomes reached in the cases assessed with the right outcomes reached in all of these cases.</p> <p>Building on discussion at the OLC Board meeting in June, the Executive have continued to develop OLC’s new three-year strategy and incorporate Board’s steer and feedback. A summary of key points and a latest iteration is provided for further</p>

consideration along with a summary of internal and stakeholder engagement around this.

The quarterly finance performance highlights underspends against budget as a result of higher attrition levels but mitigations in place and a current full end-year forecast showing a manageable £78k underspend.

Wider updates are provided in relation to other areas and the Chief Ombudsman is happy to respond to any points or update further on these areas.

Recommendation/action required

OLC is asked to **NOTE** the paper.

Equality Diversity and Inclusion

EDI implications

Yes

The paper updates on a full range of areas where there are clear EDI implications and references, many of which are also included in wider Board papers.

Freedom of Information Act 2000 (Fol)

Paragraph reference

Fol exemption and summary

N/A

N/A

Executive Report

LeO's Performance

Quarter 1 performance saw a strong start in the first 2 months, with both April and May achieving closure expectations and with May exceeding the top of the published range. June, however, saw sharp reduction in closures, delivering 556 against a forecast range of 726 – 781. This means that, for Quarter 1 as a whole, we have delivered 1864 against the forecast range for Quarter 1 of 1955 – 2094, a 91-case shortfall across the quarter.

This performance was against a backdrop of significant operational challenges: implementation of Scheme Rules changes creating short term resource and time constraints and limiting the flow of opportunities for early resolution by the Front End team; Ombudsman resource issues as we induct and support a large volume of new investigators; and attrition levels beyond the higher end of what we had anticipated within quarter 1.

The Pre-Assessment Pool (PAP) continues to reduce with a 14% reduction on the PAP from where LeO finished in 2022/23. We also continue to see continued improvements in the PAP wait time. For those customers in high and medium complexity queues, wait times have reduced by 133 and 97 days respectively from peak in June 2022.

This reduction in PAP waiting times, alongside an end-to-end journey time in FET of 60 days, means average end-to-end journey time was 308 days for all closures across quarter 1. The average resolution time (for all outcomes including early resolution) increased in Quarter 1, from 97 to 110 days, reflecting the continued focus on closing older investigations.

The Executive have responded urgently to address these issues and to put in place mitigations and actions to address these. These include overtime and using experienced staff to help address shortfalls and clear scheme rules discretion cases; concentrating investigative resource in GET in the short term; and seeking to free up Ombudsman time from Quality and Feedback checks. We are confident that these steps will deliver performance back within range in quarter 2.

LeO's People

People Performance

The Quarter 1 Performance Report provides a summary of people related activity and performance. Our key people metrics have shown mixed results with continue encouraging signs of progress on sickness absence but increases in both overall and investigator attrition (which increased above our worst-case assumption for the quarter).

Overall attrition increased this quarter and stood at 21.1% in June. The investigator attrition rate increased due to 14 investigators leaving during quarter and now stands at 28.5% (26.2% at the end of Quarter 4). Most leavers from both operations and

corporate have left due to better pay/other job opportunities, with the majority of investigators leaving for roles with other Ombudsman schemes.

Sickness absence levels have been falling over a sustained period and Quarter 1 saw this trend continue – from an average of 11.53 days per employee in April, to 11.42 days in June, the lowest figure yet over the rolling 12-month period. The current sickness target within our risk appetite measures is 11 days. The current sickness absence figure places us within the ‘green’ category for tolerance and is significant recognition of the success of the focus given to this by our HR Team.

Key People Strategy activities

Significant progress continues to be made on a wide range of key People Strategy priorities, including the completion of the Leadership Development programme in June; an end-to-end review of recruitment processes and policies; a comprehensive review of Staff Council and Networks which will result in new terms of reference and clearly defined roles and responsibilities and further feedback on 2022 People Survey sought via structured, manager-led team sessions. Further updates will be provided as part of our People Update.

A detailed report of the pay benchmarking exercise to assess LeO’s pay and benefits and wider comparative context has been completed in draft and will now be reviewed by the Executive Team before engaging with RemCo and Board. The findings of the report will provide an important evidential base on which to assess LeO’s competitiveness within the job market, the impact on the ability to attract, recruit and retain and the areas of potential development in a new employee value proposition.

Recruitment activity has continued across both Operational and Corporate areas. 27 investigators and a number of GET investigators took up posts in April and May with 13 others to follow in September. We have also made appointments to the roles of Assistant Accountant (FTC), Performance & Business Intelligence Manager and Lawyer.

Appointment has been made to the role of Interim Head of Finance and Procurement with LeO’s Finance Manager being appointed to this role following an internal competition. Permanent recruitment for the Head of Finance Role is ongoing with shortlisting and interviews being undertaken in July and early August.

LeO’s focus on Equality, Diversity & Inclusion

LeO’s EDI strategy has been reviewed and updated by our EDI Manager and is presented to the July Board meeting along with updates on social mobility reporting, and workforce/customer diversity baselines. A consultative approach was employed with the review of strategy through engagement with network colleagues and others across the business. We believe that we have a credible, realistic and ambitious plan that will support LeO to progress our Equality Priority Objectives. An outline is

Board will also be aware that we launched our ‘traditional’ mentoring pilot in May. This attracted significant interest and nine colleagues were selected and matched with OLC Board and Executive Team members. The sessions are going well so far with both

mentees and mentors reporting value. We are also developing our 'reverse mentoring' pilot and we plan to launch that in Quarter 3.

To reinforce our commitment to employee voice at LeO, the EDI team ran some safe space engagement sessions with the staff networks to understand more about the reasons behind our scores in the Civil Service People survey. Staff appreciated the opportunity to speak openly and the feedback was used to contribute to the revised EDI strategy and HR People Strategy.

Our Disability and Carers network ran an 'ask me anything' session to raise awareness about being a carer and to encourage important open conversations about all things related to being a carer. The feedback was very positive from this session, and we plan to continue with this interactive method of supporting and educating colleagues. We are working with our Women's network to arrange some activities in Quarter 3 to raise awareness of menopause in the workplace.

Various EDI blogs/articles have been published on Link and in News in Brief by network members and LeO colleagues relating to celebrating the 75-year anniversary of Windrush, raising awareness of Refugee week, and celebrating Women in Law.

Hub and Accommodation Strategy

The Executive's programme to oversee development of LeO's future ways of working and accommodation options continues to progress.

LeO representatives are working with the Government Property Agency (GPA), MoJ and property agents to understand emerging options for future accommodation in the Birmingham area. Further discussions on those options and next steps will be undertaken in July.

A Future Ways of Working staff survey was conducted among LeO's people in May to help inform our approach and decision-making. The questions related to office working as well as hybrid arrangements and improvements that could be made. 182 people (60%) responded with the results telling us that any future office location would need to be accessible with affordable parking, secure and well-lit routes and public transport links. It also needed to accommodate space for different types of working. Whilst collaboration was seen as important to effective office working, building relationships and widening networks, people said they needed a greater sense of purpose to being in the office and more home working with greater flexibility and choice as to when they come to the office.

There was a lot of further detailed feedback which is being analysed. The results will be shared more widely across the business as we consider this detail and will help shape and develop our consideration of accommodation options and future hybrid model, a key driver for defining future office space and facilities, going forward.

LeO's Cardiff Hub will shortly move location to a new MoJ office space. This follows months of liaising with the MoJ in sourcing an area in the MOJ office in response to several security and wider issues raised by staff on the Cardiff office. Staff will be

working from the new office in July. The commitment to sourcing an alternative has been welcomed by staff.

The use of MOJ office space on Cardiff and Leeds, which supports the MoJ aim of making best use of existing MOJ accommodation amongst the wider MOJ family, demonstrates the benefits of collaboration between MoJ and LeO, and the success of this collaboration has recently been shared with the MOJ Chief Operating Officer by MOJ officials.

Quality, Service and Legal

Quality assurance

Performance against service and outcome related quality assurance metrics has dipped in Quarter 1 as outlined in our Quality and Service Performance update. Although always disappointing, assurance can be taken from the fact that the outcomes in the cases assessed remain the right outcomes even where the process reaching these outcomes could have been implemented better. On a detailed review of the cases that failed to meet the required standard on process and guidance, the failure was attributable to procedural issues and the outcome reached (either by way of agreed outcome or ombudsman decision) was sound, robust and defensible.

From a service perspective we continue to identify issues around delay and poor communication on our casework. The continued appearance of these issues is proving difficult to rectify while we continue to reduce case backlogs and balance multiple priorities in both the quality and operations teams. The operational and quality teams continue, however, to work closely to address these issues that impact overall customer experience.

Customer satisfaction

Customer satisfaction surveys for Quarter 1 are still being conducted and as a result we will not have the data from those reviews until early August. Anecdotally, we see no reason to expect any significant variance in performance against customer satisfaction metrics compared to previous quarters. Based on the data seen across previous quarters, it is likely that we will continue to see evidence of customer dissatisfaction with LeO's communication and case progression. It is also likely that we will continue to see very polarised levels of satisfaction correlation with the overall outcome of complaint outcomes. We also continue to note that our customers welcome receiving an outcome to their complaints at the earliest possible opportunity and therefore work done by our early resolutions teams continues to be well received.

Quality Framework Review

The findings of Dr Chris Gill's review of quality assurance in the Ombudsman redress sector will be published shortly. This review looked at the range of approaches to quality assurance across a number of other Ombudsman schemes and dispute resolution bodies. The results, which are included in high level in the quality performance update, identified a number of high level strategic questions that should be considered when looking at designing a quality assurance framework – those questions will be reflected

upon as LeO progresses with its long awaited quality framework review over the course of 2023/24. At the recent Ombudsman Association conference LeO, in conjunction with Dr Gill and the Financial Ombudsman Service, the Deputy Chief Ombudsman delivered a well-received plenary session on different approaches to quality frameworks and the findings of Dr Gill's research.

Service complaints

The Service Complaints Team continue to make steady progress in reducing the number of service complaints awaiting review. The team's thorough approach to these complaints continues to result in a high proportion of resolutions at the first stage of our formal process. Consistent themes of upheld service complaints continue to be delay and communication which reflects what is seen through our quality reviews. We have noted that the number of customers raising concerns around LeO's approach to reasonable adjustments has reduced, which reflects the considerable work invested in improving our approach in this important area.

Legal

The number of more formal challenges to LeO's decisions - received either by way of pre-action letter or formal claim for judicial review - remain broadly consistent with levels seen over the last 12-18 months. The team are currently undertaking an exercise to compare the number of challenges we receive to those received by other Ombudsman schemes to ensure that the approach we take to challenges is consistent with best practice in the sector.

The Legal Team have been monitoring a recent Court of Appeal ruling (relating to another Ombudsman scheme) which considered the the implied authority of an Ombudsman to withdraw a decision on the basis of error or new evidence that materially impacts the outcome. We will continue to monitor closely to assess any impacts for LeO and are working with other Ombudsman schemes to understand wider stances and approaches.

Implementation of new Scheme Rules

We continue to monitor the impacts of the new Scheme Rules on customer experience, levels of demand and the protected characteristics of our customers.

Since go live on 1 April we have received over 2600 new files through our online complaint form which are being dealt with under the new Scheme Rules. In the first 6 months LeO has planned an enhanced approach to the assessment of time limit changes ensure fair and reasonable access and have, so far, proactively approached all customers affected by the changes to consider discretion to ensure fairness. Of those cases received, we are currently seeing around 25% of cases being potentially out of time based on a strict application of the new time limits. Based on the information that is currently available we are seeing that discretion is being exercised to accept an out of time case in around 75% of these cases.

The resource and time taken to gain the necessary information to make a discretion decision has been higher than anticipated. We are experiencing a time lag in relation to our ability to process these discretion decisions whilst customers provide the information

that we need to be able to assess the merits of applying discretion. This work has resource implications which also detracts from GET's ability to process non-discretion cases.

As yet we are not seeing the practical application of the other new scheme rules and do not anticipate seeing them to any significant degree for some months as we wait for non-FET cases to be passed for investigation.

Given the relatively small number of cases that are being directly impacted by the scheme rules changes at this stage it is not possible for us to draw any statistically reliable conclusions around the EDI implications of the new scheme rules. We will continue to collect EDI data although we are currently restricted not only by a small sample size but also an apparent reluctance on the part of customers to self-selectively provide this information. We will continue to keep Board updated on an ongoing basis.

Strategic and Business Planning

2024-27 OLC Strategy

Building on discussion at the OLC Board meeting in June, the Executive have continued to develop strategy and incorporate Board's steer and feedback. A summary of key points and a latest iteration of a skeleton document is provided for further consideration at the July Board meeting.

Following the OLC Board meeting in June, the Executive launched 'Strategy Fortnight' which consisted of an All Staff Briefing with the Chair and Chief Ombudsman followed by focused strategy sessions with LeO's people held by the Chief Ombudsman and Executive Team. The sessions were positive and well received provided insight into The Executives and Boards thinking on the vision, mission, strategic objectives and aims. These sessions allowed staff to listen with the opportunity to ask questions on the outline of the strategy. The External Affairs Team produced further guidance for managers to hold bespoke sessions on the draft strategy with the concept of gaining further feedback and thoughts on the current proposal. The high-level feedback will be shared at the July Board meeting, which in summary has been positive.

Whilst the strategy is in its development stages, LeO has been proactive in engaging with staff and external stakeholders over the proposed direction of travel. The internal launch of a 'Strategy Fortnight' which completed on 14 July has provided the Executive with the opportunity to have both organisational wide and team focused discussions on the proposals outlined in the strategy on a page. An All Staff briefing with the Chair and Chief Ombudsman on 27 June launched the fortnight with two further Chief Ombudsman facilitated sessions held to discuss the draft proposals in more detail and provide opportunity for staff questions and feedback. Initial feedback was positive with staff engaged on key aspects of the strategy, purpose and vision. Team level discussions led by line managers have now taken place to provide more detailed feedback on each of the proposals, including around how motivational the draft purpose and vision are and suggestions for opportunities under each proposed objective. An

update on the emerging staff feedback from strategy fortnight will be shared with Board at the July meeting.

External stakeholder engagement will take place during the summer, utilising existing external stakeholder engagement channels ahead of formal consultation in the autumn. The Chief Ombudsman will meet with a number of Chief Executives on the strategy and forward look. The OLC Chair and Chief Ombudsman are seeking to host a 'roundtable' event to bring together key senior colleagues from across the sector. A Challenge and Advisory Group meeting and a Service Provider Forum meeting are also scheduled for August.

The strategy will be discussed with the LSB Board on 24 July at the OLC/LSB Board-to-Board meeting. Outputs of Julys Board and the Board-to-Board meeting will test key aspects of the strategy and inform further development and thinking ahead of consultation. This follows on from an initial meeting with the LSB Executive colleagues in June on broad aspects of the developing strategy.

2024/25 Budget & Business Plan

The 2024/25 Budget and Business Plan process has commenced. A milestones plan was shared with ARAC and OLC Board in June which factored in the lessons learned from 2023/24 in our attempt to continuously improve this process. The Executive have held an initial discussion on the outline aspects of the plan, aligned to the emerging strategy, and considerations for 2024/25 budget proposals. A high-level mapping of key deliverables will be discussed with LeO Management Team colleagues on 17 July, to gain their input and commitment and to help develop a collective view of deliverables and activities.

OLC Board Performance Sub-Group meetings have been scheduled throughout Quarters 2 and 3 to align with the planning process and feed into the trajectories and budget setting. Engagement continues with the LSB Executive on both the Strategy and Budget & Business Plan planning. Confirmation and receipt of the draft LSB Budget Acceptance Criteria is due by the end of August.

Finance

The quarterly finance performance report provides an update on the financial position at the end of Quarter 1 for Board's assurance.

Expenditure year-to-date is currently £171k (4.1%) underspent against budget as a result of higher attrition levels. Taking account of mitigations that have been in place so far, the current full year forecast to the end of 2023/24 is a £78k underspend. This includes the 4.5% Pay Remit agreed with the Ministry of Justice and the £1,500 non-consolidated payment for eligible staff and the associated Employer's NI @13.8%. It also includes an increase in overtime spend allocated to help improve performance on case closures. This is a manageable forecast underspend for this point in the year and will be managed and monitored with potential mitigating actions, including potential additional investigator recruitment, considered regularly by the Executive .

Risk, Audit & Governance

Strategic Risks and Risk Management

A comprehensive review of strategic risks, risk appetite and scores has been undertaken with risk owners in Quarter 1 to ensure these risks align to 2023/24 Business Plan and team objectives. The Executive have reviewed and agreed on the draft overall risk appetite statement to be discussed at the July Board, where Executive colleagues will be seeking Board approval as part of the Board Strategic Risk workshop. The new set of strategic risks were presented to ARAC in May and will also be shared for discussion at the July Board meeting.

The same exercise has been completed for all business unit risks during May and June, aligning these to the strategic objectives and risks. LeO are currently tracking 77 risks across the business against a risk appetite and tolerance (where applicable). Recruitment for the Risk Manager role is progressing with interviews taking place in the first two weeks of July.

Internal Audit

Progress continues with the 2023/24 GIAA audit plan which remains on track. The final report for the Management Reporting audit has been received, which received a very welcome 'substantial' audit rating with only two low recommendations demonstrating the significant progress that has been made in this area. These actions will be tracked and accounted for from July onwards. Scoping meetings with GIAA for the Cyber Security and Staff Complaints and Grievances audits have taken place in readiness for GIAA to complete the fieldwork during Quarter 2 as per the audit plan.

In terms of previous audit actions, we have 25 outstanding recommendations: 13 are 'on track' and 12 are currently 'overdue'. These relate to payroll, recruitment, and information assurance. The main reason for these being overdue relate to capacity constraints and many of the actions relate to work on larger projects and policies which are being progressed, for example the overhaul of our approach to recruitment. We will continue to report to ARAC in full on progress with these.

2022/23 Annual Report & Accounts

Following the OLC ARAC and Board meeting on 15 June external auditors completed testing of the 2022/23 Annual Report and Accounts including final testing and checks and internal review processes. The final version of the Annual Report and Accounts was submitted and signed by the Comptroller and Auditor General on 19 June and laid in Parliament on 4 July.

Positive press coverage of the content of the report was published in both the Law Society Gazette and Legal Futures. The coverage demonstrates further welcome change in the external perception of LeO and its performance. Following the publication of the Annual Report and Accounts, the final report was shared with colleagues from across the legal and consumer advice sector. A letter from the Chief Ombudsman was

sent to Chief Executives at a number of organisations outlining key achievements in 2022/23 and inviting them to meet to discuss the future vision for LeO.

Following laying of the report, LeO is conducting a lessons learned exercise of this year's process, which will be presented to the ARAC Chair in the first instance. This will focus on learning which could help address some last minute external audit checking issues and help ensure next year's approval process runs more smoothly.

External & Stakeholder Engagement

Stakeholder engagement through the first quarter of 2023/24 was primarily focused on the developing OLC Strategy for 2024-27, the publication of the OLC Annual Report and Accounts and widening our engagement with other Ombudsman schemes.

In May, LeO hosted a visit in Birmingham from the Legal Services Consumer Panel. The visit was focused on LeO's improvement, its commitment to EDI and supporting vulnerable customers, and considerations around the development of its insight and transparency work as we look to the new OLC strategy. The Panel were supportive of the changes that have been implemented over the last few years and recognised the improvements in customer experience. There were opportunities for closer working and support in the future, including on the enhancement of LeO's learning and insight offering and the findings of the Panel's Tracker Survey. A follow-up letter from the Chair of the Panel, Sarah Chambers, has reaffirmed the Panel's desire to explore these areas of work in more detail.

In June, a number of LeO colleagues teams attended the Ombudsman Association's annual conference in Birmingham. The theme of the conference was "staying effective in a time of change" and focused on the question of how Ombudsman schemes can best respond to social and economic changes, a focus on driving system change, the role of automation, the impact of the cost-of-living crisis, and quality assurance in Ombudsman schemes. LeO colleagues also participated in a collaborative discussion on best practice in understanding and reaching out to under-served and under-represented communities. The learning from the conference and from discussions with peers from other schemes helped highlight some of the challenges many within the Ombudsman sector are navigating, and provided LeO with the opportunity to both contribute and listen to examples of best practice around pro-activity in dealing with change.

LeO also had the opportunity to host a visit from the Scottish Legal Complaints Commission (SLCC). The meeting was a useful opportunity to share information on a range of areas of common interest including developments in the legal landscape in both jurisdictions, work to improve operational processes and the customer experience and potential developments in remit to include enhanced focus on standards and improving legal services.

We have engaged with a number of wider Ombudsman schemes over the last quarter as we seek to keep connected to developments in the Ombudsman sector, including discussions with the Parliamentary and Health Services Ombudsman on outreach and

engagement; the development of a UK Working Group of Ombudsman schemes to share best practice around engagement with underserved and unrepresented communities; and meetings with the Financial Ombudsman Service, the Pensions Ombudsman and Ombudsman Services on areas of general interest and opportunities for closer working and sharing of best practice.

The Chief Ombudsman and Executive colleagues have continued to engage with the LSB and MoJ on a number of topics over the last quarter, including on the future strategy, future ways of working, the unregulated sector, and the immigration system and how it can be improved.

A list of further stakeholder engagement, including engagement through LeO's learning and insight work is attached.

Further stakeholder engagement meetings, including engagement through LeO's learning and insight work

Date	Meeting	Purpose	Online/in-person
9 May	Bar Council Scheme Rules webinar training	Bitesize scheme rules training for Barristers and Clerks	Online
18 May	Legal Eye Conference	Introduction to LeO- inc. role of LeO, jurisdiction and business processes	In-person
18 May	LSCP visit to Edward House	To discuss plans under priority three and support for further development of insight work.	In-person
31 May	Kennedy's Training	Training for a law firm in Birmingham on complaints handling	In-person
10 Jun	Sole Practitioner Group Annual Conference	Strategic and operational panel discussions attended by L2 Ombudsman and Head of Operations	Online
19-21 Jun	OA conference	Conference focusing on Ombudsman best practice, impact and 'staying effective in time of change'.	In-person
19 Jun	SLCC visit	Opportunity to discuss developments in both organisations.	In-person
23-Jun	July edition of Manchester Law Society Magazine	'How we use complaints information to feed back to the profession'	Online
28 Jun	Liverpool Law Society Compliance Conference	Presentations on good complaints handling and learning from complaints	Online
29-30 Jun	All staff events on the proposed strategy for 2024-27	To discuss the proposals in more detail and gather staff feedback	Online
2 July	Today's Conveyancer article published	Focusing on the front-end team	Online
4 Jul	Annual Report and Accounts 2022-23 published	ARA laid in Parliament and published externally	Online
4 Jul	Remedies training	New LeO training course being delivered	Online
6 Jul	Online blog between LeO and the Law Society	'Slow response to a scam: avoiding a complaint to the Legal Ombudsman.'	Online
11 Jul	MoJ Immigration Workshop	To discuss how the system is operating and agree next steps for improvements.	Online