

Minutes of the fourth meeting

Office for Legal Complaints (OLC) Board

Monday 19 October 2009

10.00am – 1.30pm

Victoria House, Southampton Row, London, WC1B 4AD

Present:

Elizabeth France, Chair
Rosemary Carter, member
Margaret Doyle, member
Professor Mary Seneviratne, member
David Thomas, member
Tony Foster, member
Brian Woods-Scawen, member

In attendance:

Adam Sampson, Chief Ombudsman
Nyall Farrell, Interim Chief Operating Officer
Liz Shepherd, Interim Programme Director
Lesley Hancock, Head of Human Resources

Secretary:

Alison Robinson, Policy Manager

Pre-Board presentation

There was a pre-Board session facilitated by *the team* to discuss the public facing image of the ombudsman scheme. Board members also considered the name of the Ombudsman scheme, agreeing that the scheme should have a descriptive name; that the word Ombudsman had to be included in the title; and that should be a name that was easy to use in relation to consumers, the public and media generally. In addition to the Ombudsman for Legal Complaints, the options of Ombudsman for Legal Services and the Legal Ombudsman were also considered. The Board concluded that the name of the Legal Ombudsman accompanied by a strap line would also avoid other short hand names being developed that did not perhaps express the purpose of the new scheme. The Board agreed that a short list of names and a preference from the executive was to be circulated quickly so a final decision could be made.

Item 1 – Welcome and apologies

1. No apologies were received.

Item 2 – Minutes of previous meeting

2. The minutes of the meeting of 28 September 2009 were approved.

Item 3 – Matters arising

3. The meeting noted matters arising from previous minutes.
4. Members had noted that the Solicitors Regulation Authority (SRA) had provided the information it had promised in relation to the operation of insurance and the compensation fund very close to the Board meeting. The Board asked the executive to follow up how Ombudsman scheme awards would be covered by SRA insurance provisions and to report back to the Board.
5. The Board asked the executive, in developing an approach to publishing members' expenses, to look at the format used by the Ministry of Justice and to look to develop a monthly return for members' expenses. The meeting noted that publication would need to acknowledge the role of the LSB in authorising and paying OLC Board expenses.
6. Members noted that a revised draft of the scheme rules was being prepared following the previous meeting where a number of areas had been identified that required updating to the current drafting.
7. Members were keen to continue to invite speakers to future meetings.

ACTIONS

- The executive to follow up how Ombudsman scheme awards would be covered by SRA insurance provisions and to report back to the Board.
- The executive to develop an approach to publication of expenses following the format used by the Ministry of Justice.
- Board Secretary to continue to invite speakers to future Board meetings.

Item 4 - Chair's update

8. A list of the meetings attended by the Chair and/ or Chief Ombudsman since the last meeting was circulated for information.
9. The Chair reported that interviews for the role of Deputy Chief Ombudsman would be held on 26 October 2009. There was a strong field for the role and the panel was confident that a strong candidate would be appointed. Each applicant had been offered the chance to speak to the Chief Ombudsman prior to the interviews.
10. The Chair also reported that around 150 applications had been received for the roles of Ombudsmen. A balanced field had been selected for a long list interview. In the light of the response to this advertisement, the possibility of recruiting more than two candidates would be considered by the selection panel.
11. The Chair also noted that the case fee consultation had been published alongside the business plan. Discussion forums had been arranged for the case fee consultation in the coming weeks and the Chair asked members to indicate to the executive if they would be available to attend any of the discussion groups.

12. The Chair drew the attention of the Board to the range of procurments currently underway and reminded members of the importance of carefully following Ministry of Justice procurement processes.
13. Members were reminded of the need for probity and noted the standard response for enquiries about possible services required by the OLC was to point to the Catalist and advise potential suppliers that we were required to procure through this list and associated rules. The Chair suggested members seek advice from the interim Chief Operating Officer if they would like additional advice or guidance.

ACTIONS

- Members to indicate if they wish to attend any of the discussion groups regarding the case fee consultation.

Item 5 - Chief Ombudsman's report

14. The Chief Ombudsman reported that there had, in the past weeks, been a step change in the pace of the project, with significantly more people having joined the project team in various interim and contract roles. The move from temporary accommodation in London to temporary accommodation in Birmingham was also imminent, with the consequence of further changes of staff, particularly support staff who would not continue with the OLC because of the relocation.
15. He also reported that IT had been a recent priority and was close to going out with an invitation to tender. There had been some problems identifying an appropriate list from which to procure services, which had led to some small but not crucial delays.
16. Members noted that the week of the Board meeting in December was becoming a critical time, with key decisions about IT, property, secondary legislation and commencement orders to set the start date of the Ombudsman scheme, as well as deciding the scheme rules and approach to case fees all being required within the same week. Members asked for a paper setting out the best known position on a start date to be submitted to the next Board meeting on 23 November to allow the Board to take stock before the critical period in December.
17. Another priority was to conclude the procurement of programme management services.
18. The Chief Ombudsman also noted that he was preparing to advertise for three senior staff appointments, with interviews for two roles anticipated to be held before Christmas and the third quickly afterwards. As these were significant executive appointments, the Chair and Chief Ombudsman stated that they would like a Board member to join each panel with the Chief Ombudsman and Head of HR and would be in touch with dates closer to the time.
19. The Chief Ombudsman reported that the OLC had continued to discuss the budget, particularly in relation to the operation of the levy, with the Ministry of Justice. There continued to be questions about how the levy was collected and whether the budget system was based in accrual or cash accounting.
20. The Chief Ombudsman noted that he had continued to meet with a range of stakeholders. A key meeting, which he had attended with the Chair, was with the Minister, Bridget Prentice. It had been a positive meeting which broached the progress of implementation and key areas of potential risk. The Minister was keen to

see the new Ombudsman scheme launched on time and to meet the objectives envisaged in the legislation.

21. To conclude his report, the Chief Ombudsman noted that the sponsor team in the Ministry of Justice continued to work with the executive in partnership and was a strong champion of our interests within the Department. He congratulated Dr Elizabeth Gibby on her recently being asked to take on additional responsibilities.
22. The Chair of the Audit and Risk Committee took the opportunity to raise a point of process. The Ministry of Justice's supplementary Audit Committees had asked to see all the papers for the OLC Audit and Risk Committee. The Audit and Risk Committee had discussed this request and proposed to give the MoJ Committee sight of the approved minutes of the meeting. The Audit and Risk Committee was keen to be open about its work, but was mindful to balance this against the need to be clear about lines of accountability. The Board endorsed this approach.

ACTIONS

- Executive to prepare a paper setting out the best known position on a start date to be submitted to the next Board meeting on 23 November.
- Executive to circulate details for the senior staff recruitment and ask for a Board member to sit on each interview panel.

Item 6 – Property update

23. The meeting considered a paper outlining the responses from the tender. An evaluation of each tender submission had been completed, and a detailed business case was being prepared for the Ministry of Justice Investment Board. Members noted that the OLC had followed what the Ministry of Justice had advised to be best practice in terms of the procurement process.
24. After careful questioning and assurance that some of the summarised criteria would be set out in more detail in the paper being produced for the Ministry of Justice, the Board was content for the process to go to the next stage.
25. The Board was pleased to note the assurance of the executive that work was being done in parallel to consider how office space would be used to promote the desired culture, values and working practices of the organisation.
26. The meeting noted that Ministerial sign off as to location was required by the Legal Services Act.
27. The Board agreed that the executive should finalise the tender process provided the terms of the final package were the same or better than those outlined in the paper submitted to the Board. Members acknowledged that this process might need to be finalised between Board meetings, and agreed that the Chair of the Board should scrutinise and approve the final decision on property on behalf of the Board.
28. The meeting noted that, concurrently, negotiations were underway in relation to a temporary office in Birmingham and that the executive hoped to be based there in early November. For the Board, this meant that it would next meet in Birmingham.
29. The Board formally recorded its thanks to the Legal Services Board for hosting the nascent OLC in its office for these past few, crucial, months.

ACTIONS

- The executive to make explicit in any business case presented to the Ministry of Justice that factors that were used to assess value for money in relation to selecting a preferred property.
- The Chair of the Board to scrutinise and approve the final decision on property on behalf of the Board numbers between Board meetings.

Item 7 – Transition planning

30. The Chief Ombudsman reported to the meeting that the work around transition planning continued. Members expressed a desire that a plan be finalised as soon as possible and asked to be kept informed as thinking of the team developed and as further discussions with key stakeholders occurred.

Item 8 – In-house complaints handling

31. The executive advised that there had been further discussions with the Legal Services Board since the last OLC Board meeting. A paper was being worked on but was not yet available to OLC.
32. It was understood that the LSB had developed its thinking in relation to setting requirements and principles to guide in-house complaints handling. This was in the context of wider consideration of its approach to its role as an oversight body. While it had not been a joint process, it was understood that the approach currently being considered by the LSB accorded more closely to that sought by the OLC Board as the basis for the Ombudsman's consideration of complaints.
33. The senior management team of the LSB was to consider this approach and then recommend an option to its Board.
34. The meeting agreed that the approach currently being considered by the LSB seemed positive, noting that the key concern for the OLC was for all lawyers to have some form of in-house complaints procedure, so the scheme rules would not be based on a false premise and also to prevent the OLC appearing to fill a regulatory gap by setting standards when judging service issues.
35. Members noted that as the case fee structure required some judgement as to proper complaints handling, it would be more appropriate for these standards to be set by the LSB rather than the OLC in day to day practice.
36. The meeting asked the OLC executive to continue to seek to work in partnership with the LSB over the coming weeks. Members reiterated their view that this was a key area which would set the basis for the new ombudsman scheme.
37. The Chief Ombudsman noted that the OLC and LSB were in the early days of a process to agree a Memorandum of Understanding that would set the tone and general approach for the way the two organisations would work together.

ACTIONS

- OLC to continue to work with the LSB in regard to in-house complaints, including a requirement to have an in-house complaints process.

Item 9 – Finance report

38. Members noted that this was now a regular report to the Board. The interim Chief Operating Officer (COO) advised that the finance report continued to be refined, with the key development in this last month being a shift from reporting on 'cash out' to accruals accounting. This also explained why there appeared to be a jump in expenditure. The interim COO advised that the trajectory of spend remained as expected.
39. Members noted that staff costs remained the most significant area of spend. From next month the other key area of spend would be on premises and associated expenditure. The meeting also noted that there would be a trend of continuing slow growth in expenditure. Future commitments included recruitment for the remainder of the ombudsmen positions, temporary accommodation and temporary IT.
40. Members discussed whether a forecast should be included in the monthly report to enable the Board to look at cash flow and identify any areas of concern. The meeting concluded that this was the purpose of the quarterly budget report, in which fuller financial information, including future forecasts would be provided to allow the Board to question areas of potential concern.
41. The interim COO also advised that it had been confirmed by the Ministry of Justice that the OLC was not able to recover VAT. This had been budgeted for so there was minimal impact on financial projections. The OLC would not be able to recover VAT as it was not a Crown NDPB or a Government Department.
42. The interim COO also asked members to note that the next key milestone in terms of the OLC budget would be the estimates process that would occur in November 2009. How the budget would be phased would be the key consideration in this process.

Item 10 – Risk

43. The meeting noted the project risk register.
44. The Audit and Risk Committee had discussed the management of risk at its meeting on 12 October 2009. The view of the Committee was that looking at risks to the organisation was a matter for the whole Board, with the role of the Committee being to satisfy itself of the process of risk management. The Board agreed with this view and asked that risk be a standing item on the agenda, to allow members to ask questions about specific risks and seek assurances as to how they were owned and managed by the executive. Members asked for a longer slot quarterly to allow them to review the risks in more detail.
45. Members agreed that as the organisation approached a steady state, then there would be a need for two risk registers, one covering the start up project phase and the second to highlight risks once the organisation is established.

ACTIONS

- Board Secretary to include risk as a standing item on the Board agenda.

Item 11 – Committee reports

46. The Audit and Risk Committee and the Remuneration Committee both met on 12 October 2009.

47. It had been the first formal meeting of the Audit and Risk Committee and had confirmed its remit and approach. The Chair of that Committee outlined the key priorities for the Committee which included setting up processes for internal and external audit and risk. The Committee was seeking to have in place at an early stage a framework that would support the continuing growth of the OLC and ombudsman scheme as well as provide assurance that good practice was being followed.
48. The Board agreed the appointment of KPMG as internal auditors following the conclusion of a procurement process. It was noted that KPMG were also the internal auditors for the Legal Services Board and that while both organisations would use this service for reasons of efficiency, there would be two contracts which would make clear that there was not a single client.
49. The Chair of the Remuneration Committee advised that this committee had met for the second time on 12 October and would meet again immediately following the Board meeting. While this was a busy period for the Committee, the Chair noted that the need for the Committee to meet as frequently would diminish once the organisation was in steady state. Members agreed that this was the appropriate pattern of business, as many key issues in relation to staffing and remuneration required early and detailed thinking and decisions.
50. The Chair of the Committee advised that the current focus was on developing an overall HR and remuneration strategy and that this was being prepared to bring a finalised strategy to the Board for its consideration at its 23 November meeting.

Item 12 – Future agendas and any other business

51. Members noted that the next Board meeting would be held on 23 November 2009 starting at 11.30am as this would be the first meeting in Birmingham.
52. A key item on the next agenda would be the HR/ Remuneration strategy. Also on the agenda would be more detail about IT. The meeting also discussed ideas for future speakers, which could include the Institute for Legal Executives, a member of a Board of a different Ombudsman service to talk about experiences of that role, and Consumer Focus.
53. There were a number of items of other business. Members provided feedback on the write up by the branding agency to assist the creative brief and asked the executive to pass this back to the agency to include in their thinking.

ACTIONS

- Executive to pass members feedback to the branding agency to include in their work to develop a brand for the Ombudsman scheme.
54. The meeting closed in time for a presentation by Dr Elizabeth Gibby, Ministry of Justice, about the relationship between an NDPB and its sponsoring department.
 55. The next meeting is scheduled for 23 November 2009 at 11.30am in Birmingham.