

| | | | |
|------------------------|-----------------|------------------------|------------|
| Meeting | OLC Board | Agenda Item No. | 5 |
| | | Paper No. | 129.4 |
| Date of meeting | 18 October 2023 | Time required | 20 minutes |

| | |
|----------------|--------------------------------|
| Title | Executive Report |
| Sponsor | Paul McFadden, Chief Ombudsman |
| Status | OFFICIAL |

| Executive summary |
|---|
| <p>LeO's operational performance continues to make progress with improvements in timeliness and PAP reduction. This is despite challenges resulting from the implementation of new Scheme Rules time limits, higher than expected attrition and a sustained increase in demand which is counteracting and slowing PAP reduction. In terms of closures, the first half of 2023/24 saw varied performance against published ranges with LeO ending quarter 2 on 3843 closures, 230 below the lower range forecast. Mitigations and actions continue to be put in place to address challenges and LeO expects to recover a 230-closure shortfall back into the annual forecast range by the end of 2023/24.</p> <p>Attrition continues to present a central challenge with higher than forecast levels of investigation attrition sitting beyond worst-case assumptions. This forms the central focus of our people strategy activities as we look to improve the employee experience and LeO's competitiveness in areas within LeO's control, including progressing the report of pay benchmarking; launching a significantly improved employee benefit package; progressing key EDI strategy activities; and strengthening LeO's Staff Council and network arrangements. An enhanced pay award proposal for lower-paid staff and investigators has also been submitted to MoJ for approval.</p> <p>A significant effort on external engagement has informed the final draft 2024-27 Strategy presented to Board for approval alongside the 2024/25 Budget and Business Plan and a detailed response to the LSB Budget Acceptance Criteria. This includes a proposed budget increase of 6.95% (£1.167m) on 2023/24, 58% of which relates to a proposed 5% pay award for 2024/25 alongside an increase in headcount related to learning and insight activity to support the new strategic direction.</p> <p>From a finance and governance perspective, we continue to track a manageable forecast underspend for the year end, continue to monitor and manage strategic risks and issues in conjunction with ARAC, and have received substantial ratings in both GIAA audits received so far this year.</p> <p>Wider updates are provided in relation to the full range of LeO's performance and activity and the Chief Ombudsman is happy to update further on these areas.</p> |

| Recommendation/action required | |
|---|---|
| OLC is asked to NOTE the paper. | |
| Equality Diversity and Inclusion | |
| EDI implications | Yes |
| The Chief Ombudsman's report provides a summary of activity and performance across LeO and therefore covers a wide range of areas with the potential to impact from an EDI perspective. These are addressed individually in specific papers. An update is also provided on LeO's general progress against EDI strategy and plans. | |
| Freedom of Information Act 2000 (Fol) | |
| Paragraph reference | Fol exemption and summary |
| Pages 5 and 6 | Reference to assessment of future accommodation options and negotiations related to Edward House. Section 43(2) exemption information on the basis that disclosure would, or would be likely to, prejudice commercial interests. |

Executive Report

LeO's Performance

The first half of 2023/24 has seen varied operational performance with three months inside published ranges and three outside. This means that LeO finished the first half of the year at 3843 closures, 230 below forecast range.

This performance was against a backdrop of operational challenges resulting from the implementation of new Scheme Rules time limits and higher than expected attrition. We are also seeing sustained increases in demand for LeO's service with increases in customer contacts and general enquiries (11.6%) and new complaint applications (6.1%) on the same period in 2022/23. This has increased core demand (those complaints accepted for resolution) beyond forecasts and is counteracting and slowing progress with Pre-Assessment Pool (PAP) reduction.

The Executive responded quickly to address quarter 1 issues and continues to put in place mitigations and actions to address challenges. We have seen the positive impact of mitigations in quarter 2 with increasing case flow through to Early Resolutions which will translate into increased closures across quarter 3. Assuming closures within the monthly closure range throughout the rest of the year LeO expects to recover the 230-closure shortfall back into the annual forecast range by the end of 2023/24.

The PAP continues to reduce on a sustained monthly basis with a 15.5% reduction from where LeO finished in 2022/23, albeit that this is a slower rate of reduction than forecast. We also continue to see improvements in wait times: high and medium complexity wait times reduced by 125 and 257 days respectively from their peak in 2022 with wait times for highest complexity cases down to 88 days; and half of LeO's customers are now resolved by early resolution with no wait time and an end-to-end customer journey time of 42 days in September. Average end-to-end customer journey time (for all outcomes including early resolution) was 314 days for all closures across the first half of 2023/24. The average resolution time was between 105 and 110 days. Customer journey and resolution times remain high given LeO's continued focus on resolving the oldest cases in investigations.

LeO's 2024/25 Budget and Business Plan consultation captures this and other key aspects of continued progress in 2023/24 in more detail, whilst highlighting the ongoing challenges faced and emphasising a clear message of 'no complacency'.

LeO's People

People performance

Overall attrition has seen an increase and remains a central challenge, standing at 22.9% in September. The investigator attrition rate also increased (33.2% in September) as a result of 14.44 FTE investigators leaving in quarter 2. Year-to-date investigator attrition is 27.24 FTE against a worst-case scenario of 26.4 FTE, although quarter 3 is

showing some signs that this overall rate will reduce. This has been factored into revised performance trajectories. Most leavers have reported leaving due to better pay/other job opportunities.

We are continuing to tackle attrition across a number of fronts by improving the employee experience in areas within LeO's control. This includes a recently-developed improved employee benefit package; increased development opportunities through secondment; implementation of a mentoring programme; and roll-out of the new Leadership Development programme.

We have also undertaken a review of our Staff Council and networks, with revised terms of reference and defined roles and responsibilities shared with Staff Council and networks pending a relaunch of Staff Council and promotion of networks. This includes allocation of time to members of the Staff Council and network convenors which will help further improve employee engagement mechanisms.

Resource issues within the HR team remain but are stabilising with the recent recruitment of an HR Business Partner and appointment of an internal secondment HR Systems Business Partner role to provide focus on HR system/process improvements.

Benchmarking

A detailed report on the pay and wider benefits benchmarking exercise has been completed and reviewed by the Executive Team. Key findings include:

- Only a small number of LeO roles benchmark below the equivalent market rate (assessed using Korn Ferry's database) once the proposed LeO 4.5% pay award is applied. A number of roles, however, are assessed at market rates which are significantly out of step with LeO's direct experience of the market in terms of attrition and recruitment. We are engaging with Korn Ferry to assess whether a more recent comparator is available to take account of recent short-term inflationary pressures in the market.
- LeO's own supplementary comparison of investigator salaries across similar organisations in the Ombudsman or regulatory sector (those that, in practice, directly compete for LeO investigator and other operational staff) shows that investigator salaries are higher across most of these organisations, in many cases by significant margins. The comparison of investigator roles does demonstrate some difficulty in comparing like-for-like with different investigator roles, with some of the highest-paying investigator roles in some other Ombudsman organisations possibly incorporating greater levels of delegated decision-making. The investigator role at LeO leads to the development of experience and skills that enables individuals to move into these higher-paid roles.
- LeOs' wider benefits comparison analysis confirms that most, if not all, of these organisations in the Ombudsman or regulatory sector have a significantly better wider benefits offer, including in respect of leave entitlement, contracted hours and pensions (including in many cases access to the Civil Service pension scheme).

Findings provide context and an evidential base for further discussion on LeO's competitiveness within the market, the impact on the ability to attract, recruit and retain staff, and the areas of potential development in a new employee value proposition – all of which need to be considered within an affordability and budget planning context and governance constraints.

The findings will be shared with RemCo at its November meeting for discussion and we will then communicate with staff, including initially Staff Council.

People survey

The Civil Service People Survey launched on 19 September with an original closure date of 13 October. This date was extended to 23 October giving an additional six working days for people to complete it. As at 13 October the response rate for LeO was 46%. The survey is not mandatory; however communications through leadership and regular channels are being co-ordinated to encourage LeO's people to complete it.

LeO's focus on Equality, Diversity and Inclusion (EDI)

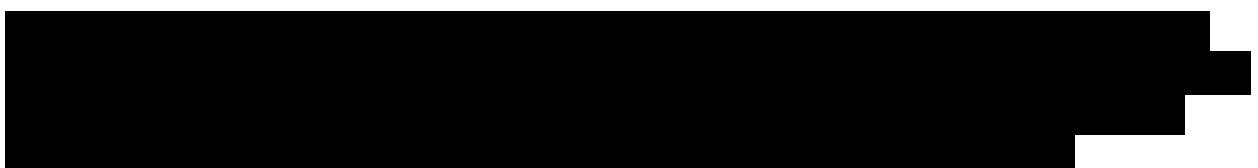
We continue making progress on EDI and delivering on LeO's EDI action plan. This includes the development of LeO's reasonable adjustments policy for employees which we have worked closely on with the Disability and Carers' Network and the external Business Disability Forum. The draft policy is now with internal stakeholders (staff networks/staff council/EDI forum/management team) for review and feedback ahead of aimed implementation in quarter 4.

We have worked closely with the Disability and Carers' network to establish a 'sensory quiet zone' area at Edward House. This is to support staff with sensitivities to loud sounds, smells, lighting, also those that suffer from migraines, in addition to supporting our neurodivergent staff. We are looking to take learnings from this initiative into our future ways of working project.

To raise awareness of menopause in the workplace, we worked with our Women's network and Henpecked (a leader in workplace menopause awareness) to deliver a training session for LeO managers. This was well received and an important first step in educating leaders on this topic and how LeO can support colleagues impacted directly or indirectly by menopause. LeO has a high proportion of women in our workforce (68%) and we will be following this up with an 'ask me anything' session in October with a panel of LeO colleagues talking about their experiences.

We have also been making good progress on external engagement activities, a key aspect of our updated EDI strategy. From an external perspective we continue building links with Ombudsmen, Regulators, and organisations that promote best practice in the EDI space, in addition to organisations that support vulnerable customers.

Accommodation and Hub Strategy



[REDACTED]

[REDACTED]

The Cardiff relocation to Churchill House MoJ Hub was completed in July. Feedback from Cardiff office staff has been positive in relation to the office environment and location.

Quality, Service and Legal

Quality assurance

The results of quality reviews undertaken in quarter 2 remain broadly consistent with previous quarters. There have been instances where outcome reviews have been failed (on the basis of procedural failures) but where the right decision has been achieved and no remedial action is required.

Standards of service reviews, particularly for cases undergoing a full investigation, continue to give rise to some concern – the causes remain consistent with previous quarters, with a lack of attention to detail and customer focus in correspondence and delays or lack of progression in some cases. We continue to work to strike the balance between efficient and timely case progression and closure and ensuring that the level of service we deliver is of the required standard.

Customer satisfaction

End of process customer satisfaction surveys for cases closed in quarter 1 show a very consistent level of performance when we look at those customers who are happy with the outcome of the investigation. For complainants we continue to exceed the target of 85% satisfaction, and for service providers, after a slight dip below target in quarter 4, the standard has returned to exceeding target.

The results for those who were not satisfied with the outcome of the investigation continue to show that outcome is the principal determining factor of levels of satisfaction with the service received from LeO. The results and verbatim comments continue to be monitored by the quality team and operations colleagues.

Service complaints

As reported in previous quarters the Service Complaints Team, now fully resourced, continues to make excellent progress in reducing the number of service complaints awaiting review. Board will have noted the Service Complaints Adjudicator's mid-year report, which reflects favourably on the quality of work undertaken by the team but also

notes the risk of the team's reliance on a single point of failure at Stage 2 of our process. Steps have been taken to mitigate that risk and further plans, including a full review of LeO's service complaints process, will help ensure suitable levels of resilience. As always the feedback from upheld service complaints continues to be fed back directly to individuals and, through LeO's Quality Committee, to the wider organisation.

Legal

The volume of legal casework being handled by the team remains consistent with that highlighted in previous quarters – there are currently no significant challenges to LeO's casework that warrant Board's specific attention. Any themes or trends that become apparent from legal challenges are again addressed directly with individuals and fed back to the business as a whole through a variety of different forums.

Implementation of new Scheme Rules

Additional resource continues to be deployed into the General Enquiries Team to enable work to be handled in a timely manner and for any delays to LeO's process to be mitigated. It is anticipated that the discretion requests received in quarter 1 will be cleared by the end of quarter 3.

Our EDI team will continue to monitor the impacts of the application of our new time limits – but our assessment on the basis of data received is that the new rules have not had a significant disproportionate impact on any group of LeO's customers.

As expected, we have not as yet seen any significant application of the other changes to the Scheme Rules, but we do envisage that work starting to come through during Q3. Processes are in place to ensure we can check the application and implications of those rules once they start being utilised.

A full Scheme Rule update will be provided for OLC Board and the LSB in due course.

Strategy and Business Planning

2024-27 Strategy and 2024/25 Business Plan

A significant LeO focus across quarter 2 has been engagement on the OLC 2024-27 Strategy and development of the 2024/25 Budget and Business Plan.

An update is provided below in relation to external stakeholder engagement on strategy. The Executive have incorporated feedback from the Board and wider stakeholders into the final draft Strategy and Business Plan consultation which is shared at the October Board meeting for approval ahead of the formal consultation.

OLC Board have been updated previously in relation to internal engagement and consultation, including staff feedback which has been incorporated into the revised Strategy. Further engagement with LeO Management Team has helped refine key activities and deliverables for the 2024/25 Business Plan. This will be developed further in December during the consultation period to finalise detailed activities ahead of the final submission in January.

The OLC Board Performance Sub-Group (PSG) met in quarter 2 to consider the trajectories and assumptions. ARAC also considered the budget setting against agreed principles at its meeting in October. Feedback from PSG has been incorporated into the trajectories and a paper updating on this is presented to October Board.

Formal consultation on the Strategy and 2024/25 Budget and Business Plan will open on 27 October for a period of 8 weeks, concluding on 22 December. Internal and external stakeholder events are scheduled for late November and early December.

2024/25 Budget

The 2024/25 budget has been prepared collaboratively between the Head of Finance and Executive budget holders. It has been reviewed and approved by the Executive Team to ensure all budget requests supports strategic and business plans and is presented at October Board for approval.

Budget headlines include:

- An overall budget of £17.95m, a 6.95% (£1.167m) increase on 2023/24.
- A proposed 5% pay award, which makes up 58% of the £1.167m budget increase.
- 5.79 FTE increase on 2024/25: 4 FTE to support increased strategic focus on learning and insight, and 1 FTE to support and improve resilience in the Finance Team.
- 78% allocated to staff costs, followed by IT and telecoms (9%), premises (4%) and other costs (remaining 9%).
- £127k for the provision of Edward House dilapidation costs, although this could increase depending on assessment of accommodation options.

Financial position 2023/24

Assurance on LeO's financial position at the end of Quarter 2 was provided to ARAC in October and is provided in the Board quarterly finance performance report.

The current full-year forecast to the end of 2023/24 is for a £89k underspend which is 0.53% of the current year's budget, within the 1% MoJ tolerance. This is a manageable forecast underspend for this point in the year, less than in previous years at this stage, and the Executive continue to consider potential mitigating spend.

The forecast includes a budgeted proposal for a 4.5% pay award for all LeO staff; an additional 1% (total 5.5%) for the lowest earning LeO grades; and an additional 0.5% (total 5%) for the standard investigator grade. It also includes the £1,500 non-consolidated payment for eligible staff agreed and paid to eligible staff in July. The pay award (not the £1,500 payment) remains subject to MoJ approval. LeO submitted its 2023/24 pay remit proposal in September and we expect an MoJ response by early November. We have also included within the forecast an increase in overtime spend to help improve performance on case closures.

Risk, audit and governance

Strategic risk and risk management

The 2023/24 strategic risks and issues and related risk appetite – and overall 2023/24 risk appetite statement – were agreed at the OLC Board workshop in July. The Executive have since followed up on a number of Board comments and feedback. This includes further additions to the risk and issue registers to articulate the linkages between risks and issues (for example, Backlog of Cases (SI01) to Performance Trajectories (SR01)) and to identify clearer reference to reputation as a central theme of many of LeO's risks and issues.

The Executive continue to review and monitor the 2023/24 strategic risks and issues on a monthly basis and a full risk assurance report was provided for the October ARAC meeting. The strategic issues related to backlog and attrition and related strategic risks have remained static in scoring through Q1 and Q2. This is primarily as a result of ongoing challenges with increases in demand for LeO's service, increased attrition and impacts related to Scheme Rules implementation, as well as some difficulties in recruiting for key corporate roles. Discussion at the ARAC meeting focused on mitigations and the management of these risks and issues and ways in which a reduction in scoring could be achieved. The Executive continue to focus on this through regular review and assessment of mitigations and controls, although it was clear that these core risks and issues relate to longstanding, deep-rooted factors (some of which are outside of LeOs control) which require long-term risk management before being in a position to reach target risk scorings.

Quarter 2 did see a reduction in scoring in relation to Scheme Rules implementation. A number of Strategic Risks (including those related to leadership resilience and budget underspend) are also expected to reduce over the coming months.

A follow-up discussion with the ARAC Chair is being scheduled to consider this further and to reflect on possible enhancements of the risk architecture which could accommodate a clearer focus on desired risk ranges. This will also consider refinements to risk reporting to both ARAC and OLC Board in light of the Board effectiveness review.

The new Risk Manager joined LeO at the start of September and will begin to assume responsibility for management and continued improvements within risk management. Key focus areas for the next two quarters will be the annual review and update of the Risk Management Policy Framework, testing of mitigating controls, internal audit evidence testing, and assurance mapping updates.

Internal Audit

Progress continues with the 2023/24 GIAA audit plan which remains on track. Two GIAA audits have been completed as at the end of quarter 2 (Management Reporting and Cyber Security), both of which received a very welcome 'substantial' audit opinion and with the cyber security audit receiving no recommendations. The draft findings to of the Staff Grievances audit will be shared shortly and the Stakeholder Engagement audit has commenced and is scheduled to conclude by January 2024.

The Executive reported a reduction in the number of overdue internal audit actions in its report to ARAC in October. The majority of outstanding actions have been impacted by HR resource pressures and relate to a comprehensive review and update of the recruitment policy and end to end process. The recruitment policy is currently being reviewed by the Executive and is scheduled for the discussion at the November RemCo meeting. Most of the remaining audit recommendations – many focused on improving internal governance on recruitment and payroll – will be closed by the end of the calendar year.

External stakeholder engagement

OLC Strategy 2024-27

A significant focus of LeO's engagement has been the OLC 2024-27 Strategy. We have used existing engagement channels, including the Challenge and Advisory Group and the Service Provider Forum, and the facilitation of a 'top table' event to listen to a wide range of views on the draft proposals. This followed discussion with the LSB Board at the OLC/LSB Board-to-Board meeting in July.

The Challenge and Advisory Group meeting and the Service Provider Forum were both keen to hear about LeO's current performance and improvements in addition to discussing the draft Strategy proposals for 2024-27. Feedback was largely positive and emphasised the priority given by many stakeholders to sustainability of performance and acceptable levels of service. Discussion also helped identify where LeO could be clearer around the improvements that have been made to the customer experience, with a clear sense that we had a better story to tell on improvement than was being heard.

It was important to hear from key strategic decision makers within the sector at a 'Strategy Top Table' event, primarily targeted towards Chief Executives and Chairs representing regulators, representative bodies, and consumer organisations. The discussion was focused on the two proposed strategic aims – how LeO can deliver effective redress and high levels of service for its customers; and how insight can be used to deliver improvements within the legal sector. The attendees saw considerable scope for strategic join-up and collaboration. There is a sense that more needs to be done to develop a positive culture around tier 1 complaints handling and seeing complaints as an aid to learning and improvement, and that LeO has a key role to play in this. We also heard a familiar message from the profession around maintaining focus on value for money.

LeO's conversations with stakeholders suggest that the business case for service providers in engaging with LeO's insights – an "invest to save" approach – is understood by the sector. LeO's learning and insight programme was seen by some as being secondary to LeO's role in resolving complaints. However, this feedback was important to hear and has provided a number of reflections around how LeO ensures its messaging is heard around the value of the learning and insight as a key benefit to the sector, and as a driver in reducing the number of complaints and therefore core demand.

From a consumer perspective, the Chief Ombudsman attended a meeting of the Advice Sector Panel of the Administrative Justice Council. Expanding our consumer reach

through the advice sector and other consumer-focused organisations is an important part of LeO's stakeholder engagement plans, so this was a timely and welcome opportunity to introduce LeO to the Panel.

Legal Services Consumer Panel (LSCP)

A meeting with the Legal Services Consumer Panel (LSCP) in September continued discussions on transparency and LeO's ambitions on learning and insight. The discussion focused on how LeO's data and insight could drive a much faster and more reliable cycle of improvement within the legal services sector, ultimately improving the service for consumers. The discussion primarily focused on the potential to publish all Ombudsman decisions, with the LSCP seeing this a major element of LeO's move towards learning and insight. LeO emphasised what is already being delivered in terms of transparency and the ambition to deliver more insight from complaints. LeO also referenced some caution on challenges of pace, resource and the extent of change required to facilitate publishing all decisions. The Panel were supportive of LeO doing more in this space and were keen to offer their support to identify collaborative opportunities to increase the impact of LeO's publications. A meeting is being arranged for January 2024 to discuss opportunities in further detail.

Legal Services Board (LSB) visit

On 28 September the OLC Chair and Chief Ombudsman welcomed the Chair of the Legal Services Board, Alan Kershaw, to Birmingham. The visit was also attended by the LSB Chief Executive, the Director of Regulation and Policy and two newly-appointed Board Members. The LSB were keen to hear from a range of LeO's staff, who on the day presented well on the positive impact of early resolution on the customer experience, how investigations are dealt with from an investigator and Ombudsman perspective, and the ambition to deliver more learning and insight which focuses on improving both legal services and first-tier complaints handling. The visit was a great opportunity to also hear back from the LSB on their clear support for LeO's ambitions and, in particular, for regulators and the sector to work more collaboratively with LeO in utilising insights more effectively.

A number of other regular governance engagements have taken place over the last quarter including an OLC/LSB Board to Board meeting and an in-person MoJ Business Assurance Meeting which took place in London.

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

| Date | Meeting | Purpose | Online/in-person |
|-------------|---|--|-------------------------|
| 24 Jul | OLC/LSB Board to Board | Annual meeting between both boards | Online |
| 26 Jul | Bespoke training delivered to the senior team within a firm of solicitors | Improve complaints handling | Online |
| 1 Aug | Challenge and Advisory Group | Regular meeting- focus on strategy | Online |
| 8 Aug | Service Provider Forum | Regular meeting- focus on strategy | Online |
| 5 Sept | Strategy Top Table | Discuss strategy with Chief Executives and Chairs of Boards | Online |
| 13 Sept | Senedd Invite | Legal Services Board's- Reshaping Legal Services in Wales event | In-person |
| 13 Sept | Administrative Justice Council (AJC) Advice Sector Panel meeting | Introduction to LeO and future strategy | Online |
| 18 Sept | LSCP meeting | To discuss transparency and LeO's learning and insight programme | Online |
| 15 Sept | Attendance at Law Society's Regulatory Processes Committee | To discuss latest performance and the strategy proposals | Online |
| 19 Sept | Training on PI and litigation | Online training event | Online |
| 21 Sept | PI Futures event | To provide update on latest PI thematic and LeO's approach to Belsner | In-person |
| 22 Sept | OA Policy Network meeting | To discuss policy developments across the ombudsman sector | Online |
| 27 Sept | Residential Conveyancing training | Online training event | Online |
| 27 Sept | Meeting with St Philips Chambers | To discuss upcoming training and review the Chamber's complaint handling procedures | In-person |
| 28 Sept | LSB visit to Edward House | Visit from the Chair of the LSB and colleagues | In-person |
| 3 Oct | Quarterly Business Assurance Meeting | Regular meeting between the LeO, OLC, LSB and MoJ | In-person |
| 6 Oct | Legal Wales Conference- Cardiff | To discuss best practice in avoiding delay, in communication and in providing cost information | In-person |
| 11 Oct | Family law and Wills and Probate training | Online training event | Online |