

## Minutes of the 127<sup>th</sup> Meeting of the Office for Legal Complaints (OLC)

Thursday 15 June 2023

<p><b>Present</b></p> <p>Elisabeth Davies, Chair</p> <p>Rachel Cerfontyne</p> <p>Patricia Tueje</p> <p>Hari Punchihewa</p> <p>Alison Sansome</p> <p>Dale Simon</p> <p>Martin Spencer</p> <p>Jane Martin</p> <p><b>Minutes</b></p> <p>Kay Kershaw, Board Governance Manager</p>	<p><b>In Attendance</b></p> <p>Paul McFadden, Chief Ombudsman</p> <p>Steve Pearson, Head of Complex Casework and Deputy Chief Ombudsman</p> <p>Laura Stroppolo, Head of Head of Programme Management and Assurance</p> <p>Debra Wright, Head of Head of People Strategy and Services</p> <p>David Peckham, Head of Operations, Transformation and Business Intelligence</p> <p>Mike Letters, Head of Finance</p> <p>Blessing Simango, Finance Manager (items 2 and 3)</p> <p>Steph Godbold, Stakeholder and External Engagement Manager (items 2 and 4)</p> <p>Sarah Gilbert, Policy Officer (items 2 and 4)</p>
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### Item 1 – Welcome, apologies and declarations of interest.

1. The Chair welcomed attendees to the meeting.
2. There were no apologies.
3. The meeting was quorate.
4. LeO staff declared an interest in agenda item three: Budget and pay remit. The Board agreed that staff could remain in the attendance for discussions on this agenda item as there was no conflict of interest.
5. There were no other declarations of interest or conflicts of interest reported.

### Item 2 – Annual Report and Accounts 2022/23

6. The ARAC Chair reported on discussions that had taken place with the Executive and External Auditors at its meeting in June on the 2022/23 Financial Statements Audit. The Board's attention was drawn to the following key points:
  - The 2022/23 Financial Statements Audit was substantially finalised, with final checks being undertaken by Auditors. It was anticipated that the final checks would be completed within 24 hours of the June Board meeting.
  - ARAC had scrutinised the key areas of focus for the 2022/23 Financial Statements Audit and the findings that had been highlighted in the Draft Audit Completion Report

and had received independent assurance from the External Auditor and assurance from the Head of Finance that nothing material had been identified and that no issues or concerns were anticipated as Auditors completed their final checks. Auditors anticipated recommending to the Comptroller and Auditor General that the OLC's 2022/23 Annual Report and Accounts should be certified with an unqualified audit opinion.

- Auditors would be issuing an email to ARAC to confirm that their final checks had not identified any issues for concern and that the Financial Statements Audit had been completed.
7. Considering this, the ARAC Chair reported that the Committee was satisfied that it had sufficient assurance to provide the Board with the assurance it required to conditionally approve and sign off the 2022/23 Accounts subject to the satisfactory completion of the Auditors final checks and recommendations.
8. Feeding back on the Annual Report and Accounts document, Board members:
- Commented that the document was well presented, clear, and accessible; made effective use of infographics and clearly set out the journey that the OLC/LeO was on.
  - Questioned whether it was necessary to include an example from the risk dashboard considering the clarity of the information already included in the risk management and accountability sections, and if so, suggested that a different example from the risk dashboard was used.
  - Questioned whether the table setting out the results of the Civil Service Survey was necessary and, if so, suggested that results were presented in a way that highlighted the improvements and ensured that the information was more meaningful to those outside of the Civil Service.
9. In response to the Board's feedback, clarification would be sought from the Auditors on whether changes could be made to the Annual Report and Accounts. The Board would be advised accordingly.
- ACTION: The Stakeholder and External Engagement Manager to seek clarification from the Auditors on whether changes could be made to the Annual Report and Accounts in response to the Board's comments and to advise the Board accordingly.**
10. Following discussion, the Board **conditionally approved** the 2022/23 Annual Report and Accounts subject to drafting changes and subject to the recommendations of the External Auditors following completion of the Financial Statements Audit.
11. On completion of the audit and minor drafting changes, the Annual Report and Accounts would be signed by the Accounting Officer and sent to the Comptroller and Auditor General for signing. The Annual Report and Accounts would then be sent to the printer to be prepared for print and web publication in time to be laid in Parliament on 4 July 2023.

### Item 3 – Budget and Pay Remit

12. The Executive reported on its assessment of the pay remit guidance, its impact on the OLC's 2023/24 budget, and discussed a proposal for the 2023/24 pay award. The Board's attention was drawn to the following key points:

- The Civil Service pay remit guidance was received in April and provided discretion for public bodies to increase their total salary bill by up to 4.5%, with additional flexibility to make an award for a further 0.5% of total salary bill towards increases for lower paid staff. The Executive had sought clarification from the MoJ on how it defined 'lower paid' staff.
  - Further guidance was unexpectedly received from the Cabinet Office in June as an addendum to the Civil Service pay remit guidance announcing an allowable one-off £1500 non-consolidated payment for civil servants; this pay would be subject to eligibility criteria and would be paid on pro-rata basis for eligible part-time employees. The Executive had sought clarification from the MoJ after some initial lack of clarity on whether LeO would be allowed to award this to staff as public and not civil servants. The Executive's assessment was that LeO would be allowed to make the payment subject to discretion, affordability and eligibility.
  - Considering this, and having consulted with Staff Council, the Executive proposed that all staff were given a 4.5% pay award; that all eligible staff (excluding the Chief Ombudsman) were given a one off non-consolidated payment of £1500, and that the Executive would continue to seek to award an additional award to lower paid staff to be determined on the basis of further considerations. This proposal would ensure that most staff would receive an equivalent to an 8% (or above) award in 2023 when taking both the pay award and the non-consolidated payment into account.
  - The Executive had assessed this proposal to be affordable within the approved 2023/24 budget and current year end expenditure forecast. There would be a small element of overspend if the full 0.5% of staff wage bill was to be used to accommodate an additional pay award for lower paid staff; the Executive would therefore be undertaking further analysis of this element of the award and considering the mitigating actions that would be required to address the overspend.
  - Further assessment of the finer details of the pay remit around applicability, further engagement with Staff Council and further clarification and approval from the MoJ would be required before the Executive would be able to formalise the pay award.
  - This proposal would not address LeO's longer term strategic risks around competitiveness in the labour market and attrition. Further consideration would therefore be given to this as part of the planning for 2024/25 budget.
  - This proposal meant that a flexibility application to Cabinet Office and HM Treasury for the 8% pay award (as outlined in the 2023/24 OLC Budget and Business Plan) would not be pursued. In discussions with the MoJ it had been clear that such an application would be challenging considering wider public sector pay discussions and that applications were expected to be an exception, cost neutral and based on long term efficiencies. Such an application would require approval of HM Treasury and Cabinet Office in addition to ministerial support.
- 13.** The ARAC Chair reported that ARAC, at its meeting in June, had considered the risks associated with the pay remit and the proposed pay award and had discussed the options being considered by the Executive to mitigate the risk of an overspend. ARAC had concluded that it would be sensible to make maximum use of the pay remit considering the cost-of-living crisis and its impact on staff and had deemed the risk associated with the overspend to be low. ARAC had requested sight of financial projections and mitigations once the pay award

had been finalised; it was expected that this information would be presented at the ARAC meeting in October.

14. In a detailed discussion, Board members:

- Noted the pension and National Insurance implications of the proposed pay award.
- Considered the risk highlighted by the Executive around potential overspend and noted assurances in that regard.
- Questioned the scope for flexibility to apply elements of the pay award on different dates or in different ways to help incentivise staff retention in the short term and noted that further clarification on the application of the pay award was awaited from the MoJ.
- Noted that ongoing engagement with staff Council was taking place on the proposed pay award; that regular wider staff updates were being issued to manage expectations and that the finalised pay award would be communicated to staff as soon as it was possible to do so.

15. Board members were broadly supportive of the proposed pay award subject to its affordability and assurance that it would not lead to an end of year overspend. The CO advised that at this stage in the financial year it would not be possible to guarantee the year-end budget position but confirmed that mitigating actions would be implemented if it was clear that the payment of an additional award to lower paid staff would lead to an overspend. In line with standard LeO practice, the budget would continue to be closely monitored by the Finance Team, the Executive and ARAC, forecasts would be revised to take account of fluctuations and every effort would be made to ensure that the budget was delivered within tolerance.

16. The Board **noted** the update on budget and pay remit.

#### **Item 4 - 2024/27 OLC Strategy**

17. Following previous discussions at February's Board workshop, the Board reviewed and discussed the emerging 'Strategy on a page'. The Chair and CO both outlined high level considerations around the vision and direction of the emerging strategy and how this built on the previous Board discussions.

18. The Board's specific feedback was captured by the Stakeholder and Engagement Manager and would be taken into consideration as the Strategy continued to be developed.

19. Recognising that LeO was entering a new phase, one in which improvements must be sustained alongside explicit consideration given to what LeO could and should do with its renewed confidence, the Board's discussion focussed on the following key points:

- The value of alignment with the LSB's Strategy and the regulatory objectives.
- The need to rigorously define the levels on which 'learning and insight' would work including what this could and could not mean for first-tier complaint handling.
- The importance of being clearer about the shared commitment to inclusion.
- A recognition that it would be easier to extract learning than it would be to deliver impact.
- LeO's ownership of 'what good would look like' and best practice in complaint handling.

- The need to ensure the Strategy was deliverable and realistic, recognising the importance of balancing ambition with risk appetite and ensuring LeO's staff were brought with it on this next phase.
- The need for clear alignment in place around the commitment to improving legal services; to ensuring that the dual aspects of LeO's work as an Ombudsman to resolving complaints and to raising standards were given equal focus, and for sustaining the improvements that had already been made in resolving complaints.
- The need for the final Strategy document to be succinct, punchy, accessible, not read like a three-year Business Plan and for consideration to be given to the best format for publishing the document on the website.

20. The Board was updated on the consultation process and timeline for the 2024/27 Strategy and the 2024/25 Business Plan, which included plans for staff engagement sessions, external engagement sessions, including a Board-to-Board meeting with the LSB in July, and further Board discussions in July and September.

21. Once finalised and signed off by the Board, the OLC's 2024/27 Strategy would be formally launched for consultation in October.

#### **Item 5 – Previous minutes, matters arising and previous actions.**

22. The minutes of the OLC Board meeting held on 26 April 2023 were **approved** for accuracy and **approved** for publication.

23. The minutes of the OLC ARAC meeting held on 23 January 2023 were **approved** for publication.

**ACTION: The Board Governance Manager to arrange for the minutes of the OLC Board meeting held on 26 April 2023 and the minutes of the OLC ARAC meeting held on 23 January 2023 to be published.**

24. The Board **noted** the update on the actions from previous Board meetings.

#### **Item 6 - Board Paper Redactions and Non-Disclosure Report**

25. The Board **approved** the items identified for redaction and non-disclosure in the June Board pack.

**ACTION: The Board Governance Manager to publish the June Board papers taking account of the redactions and items for non-disclosure approved by the Board.**

#### **Item 7 – Board Effectiveness**

26. In line with the Board's commitment to improving Board effectiveness, Patricia Tueje provided feedback on the Board meeting. The following points were made:

- The best paper was on the OLC's 2024/27 Strategy. The Strategy on a page was laid out well which helpfully aided Board discussions.
- The best session was on the OLC's 2024/27 Strategy; this was a very productive session in which all Board members contributed to the discussions.

- There may be learning and value in using less jargon and fewer corporate phrases in the Board papers.
- The revised approach to discussing governance items at the end of the Board agenda worked well.

### **Item 8 – Any other business**

- 27.** The OLC Chair and ARAC Chair thanked the Head of Finance for the sustainable improvements that he had implemented and embedded to stabilise the Finance function; for the effective relationships he had fostered within LeO and with ARAC the Board and with Auditors and wished him every success in his new role.
- 28.** There was no other business.