

Meeting	OLC Board	Agenda Item No.	4
		Paper No.	116.3
Date of meeting	18 October 2021	Time required	15 minutes

Title	Executive Report
Sponsor	Paul McFadden, Chief Ombudsman
Status	OFFICIAL

Executive summary
<p>A key focus of the October Board discussion will be developing the consultation on the 2022/23 Budget and Business Plan including consensus on how this should be shaped in light of significant ongoing and emerging challenges. As the mid-year review demonstrates, despite some positive signs in underlying progress and improvement, we are facing significant challenges in case performance now and moving forward. We are not currently able to reach forecast targets set in our Business Plan for the first two quarters and will not reach the targets set for the remainder of 2021/22. Our People and Performance updates will demonstrate that our progress is being critically undermined by not having the required number of people in the business: significant shortages in the labour market and high rates of attrition, including significant staff movements across September and October</p> <p>The priority focus for the remainder of this year and next year's Business Plan will remain recovery and organisational stability alongside ongoing improvements: seeking to address recruitment and retention and supporting the realisation of benefits from this year's investment in new investigative teams and ongoing focus on changing ways of working. Board members will see a consistent theme throughout Board papers of growing capacity challenges across the organisation. The Executive continue to actively address through alternative options to recruit and prioritising workloads.</p> <p>Significant efforts to engage with stakeholders have been undertaken in recent weeks and months to address some of these issues openly and lay the ground for our mid-year review and Business Plan consultation. This has included a series of meetings over the recent period with the LSB, MOJ and others including a workshop on legal redress.</p> <p>Progress continues to be made across finance, governance and risk management functions and Board will note ongoing activity in these areas to continue to build stability. The key risk emerging in relation to finance is the growing underspend directly related to the people issues highlighted above, particularly with significant attrition rates in recent weeks.</p>
Recommendation/action required
OLC is asked to NOTE the paper.

Executive Report

Performance and People

Performance and people and stability and recovery continue to occupy the Executive's full focus as we respond to ongoing and emerging challenges and seek to support the efforts of our operations teams to deliver against case closure and productivity targets. As the mid-year review demonstrates, although we have seen year on year improvement and some positive signs in underlying progress and achieving better ways of working, we have not delivered against the forecast targets set in our Business Plan for the first two quarters and will not reach the targets set for the remainder of 2021/22.

Our People and performance updates will demonstrate that our progress is being critically undermined by not having the required number of people in the business and significant shortages in the labour market. These items will also highlight the significance of staff movements since the Board seminar and recent weeks, including on the likely performance trajectory and wider organisational resilience. A key focus of the October Board discussion will be developing a clearer sense of the scale of the people and performance challenges being faced and how this should shape the approaching consultation on the 2022/23 Budget and Business Plan.

As a summary of the position for September, which will shortly be reported through the September Commonly Agreed Dataset:

- Case closures are below the business plan assumptions by 35% and now below assumptions for the fifth month in a row.
- We continue to show improved year on year performance with significantly less established FTE than those within the business at the comparable point in 2020.
- As of the end of September, the established investigator number was at 70.43 FTE which represents a 16% reduction on Business Plan assumptions.
- Volumes within the PAP stabilised due to the July intake of investigators taking cases to increase their case holdings and GETi making expected improvements. The PAP backlog, however, remains ahead of forecasts in the Business Plan and is now forecast to continue to grow for the remainder of 2021/22.
- September saw a significant increase in early case closures with the Reasonable Offer Made and Guided Negotiation projects beginning to deliver significant returns and now becoming part of Business-As-Usual.

A full update will be provided later in the agenda including on our PAP reduction plan.

Consultation on Mid-Year Review & 2022/23 Budget & Business Plan

Key documents due for Board approval and will be discussed as part of the Mid-Year Review Budget & Business Plan item on today's agenda. Early drafts of the Mid-year and Business Plan consultation were shared with Board members in September, and the outputs of the seminar alongside detailed feedback have been captured and addressed in the documents being presented to Board today.

The focus for next year will be in continuing to rebuild organisational stability, recovery and performance and ingoing focus on significant change to wats of working including through our Scheme Rules review project, which will be considered with Board later in the agenda. The work that has taken place in 2021/22 provides the foundations for this work next year although, again, there is a need to assess what is required of the Business Plan in light of discussion on the scale of the challenges now faced.

OLC Board discussion today will shape further development of the 2022/23 Business Plan and Budget over the short period following this meeting and submission to the LSB. A summary of the key elements of the consultation will be shared with LSB colleagues ahead of the Informal Challenge meeting on 28 October, with a view to launching OLC Budget and Business Plan consultation launch on 5 November and holding consultation events in 9 and 10 November. A high-level view of the programme milestones can be found as part of the Draft Budget Acceptance Criteria paper.

Delivery of 2021/22 Business Plan

The Mid Year Review papers presented at the September Board Seminar provided a full update on progress against the 2021/22 Budget & Business Plan milestones, deliverables and activities. This outlined progress that continues to be made with deliverables across all three Business Plan priorities despite challenges in relation to operational performance and people. At the mid-year point the Executive remain focused on delivery of key priorities despite resourcing and capacity challenge across the business and a number of recent or approaching losses across operations and corporate support. Our operational performance position remains our organisational-wide focus and all activities within these priorities are delivered either towards this aim or with this context in mind.

The Executive continue to actively address capacity challenges through alternative options to recruit and prioritising workloads. This prioritisation – and the Business Plan more generally – continues to be actioned and monitored through the Programme and Control Boards. To strengthen the Programme Management and Assurance (PM&A) function, a Programme Manager has been appointed and will start in November 2021.

Stakeholder engagement and Enhanced public reporting

A significant focus of the Chief Ombudsman over Quarter 2 has been on stakeholder engagement focused largely on accounting for our performance and progress against the Business Plan and laying the ground for our mid-year review and Business Plan consultation. This has included meetings with the Chief Executives of the Council for Licensed Conveyancers, Bar Standards Board and Costs Lawyers Standards Board aswell as meetings with the Chair of the Bar Council and presentation to a meeting of the Bar Council Board. The Chief Ombudsman and Chief Operating Officer also recently

presented to Law Society Regulatory Policy Committee (RPC) and meetings are planned over the coming period with the Legal Services Consumer Panel and the SRA.

The third meeting of the Stakeholder Challenge and Advisory Group was held in October in the lead up to the October OLC Board meeting. The group focused on key summary and themes from the mid-year review and 2022/23 Business Plan, PAP reduction project and Scheme Rules review project.

The Chief Ombudsman will update members on feedback from this meeting and wider stakeholder engagement more generally. General feedback continues to be a recognition of the work being undertaken, welcoming elements of progress being made and developing an understanding of the challenges faced.

Board members will be aware that the OLC Chair and Chief Ombudsman have also been engaged in a series of meetings over the recent period with the LSB, MOJ and others including a workshop on legal redress which will be covered in discussion with the Board at today's meeting.

In terms of wider enhanced public reporting, we are now sharing the Commonly Agreed Dataset with the Stakeholder Challenge and Advisory Group and have met our commitment to begin sharing the full agreed dataset more broadly on a monthly basis with our stakeholders including regulators, professional bodies and the LSCP.

Service Improvement, Quality and Legal

Ongoing and historic resourcing issues continue to place significant constraints on the level of service provided by our service improvement (quality and service complaints) function.

Board will recall previous updates on the challenges faced by the quality team in light of departures and internal movements over the course of the first six months of the year. We have as yet been unable to identify through recruitment a new Quality Manager to replace the Senior Ombudsman who left six months ago. The Quality Team is reduced to one part time, albeit highly experienced, quality auditor. We have been very mindful over the course of the year of the significant impact any further internal movements from our investigation or Ombudsman teams would have on an already depleted investigative resource and, ultimately, performance against case closures.

This shortage of resource has limited the team's contribution to service improvement, broadly, to the commissioning and analysis of quarterly quality reviews and customer satisfaction feedback. The team have not been able to dedicate any resource to the scoping or delivery of the quality framework review.

The Service Complaints team is now at budgeted staffing levels with a new Senior Ombudsman (Service Complaints and Improvements) in place. The team have, however, been heavily impacted by well being issues during the covid period and, given the challenges facing operational colleagues, have not been able to call on additional resource to assist with the challenges. As a result there is a growing backlog of service complaints and growing wait times.

With the current Legal Manager leaving in November we are currently assessing risks in terms of our ability to respond to new and ongoing legal challenges. We are actively recruiting and are investigating the ability to use law firms on the CCS legal framework panel to provide cover on an interim basis if we are unable to successfully recruit a replacement in the short term.

Finance

Our Finance update focuses on the increase in forecast underspend and approaches which are being taken to manage this. As discussed at October's meeting of ARAC this underspend has been driven significantly upwards since the July Board meeting update due to challenges in relation to recruitment and attrition. This includes recruitment success at below 40% of target levels for September and November intakes and significant attrition across operations and corporate support across September and, in particular, recent weeks.

More broadly on finance, the National Audit Office presented their Management Letter following the 2020-21 audit to October meeting of ARAC. This followed up on control observations identified during the 2019/20 audit which raised number of concerns and high priority items. Against five high risk areas identified in 2019/20, two are closed following the 2020-21 audit with the remaining three partially complete, and further progress ongoing. The Executive's update to ARAC and planned response to NAO will recognise the significant progress reflected in this year's audit against the critical issues raised in 2019/21 and that further actions to progress are in hand.

Risk Management, Audit & Governance

The Executive have continued to develop our approach to risk through ongoing implementation of risk LeO's management policy and framework. Building on Board's adoption of the risk appetite position earlier this year, enhancements have been made to risk appetite reporting with October's meeting of ARAC agreeing new risk appetite statements for the identified principal risk themes. This provides a more measurable / auditable approach to risk appetite reporting supported by targeted risk statements and will help ensure that risks are identified and quantified in a structured way that relates them to OLC's business objectives and strategy. October's ARAC meeting also discussed the latest position against agreed Strategic Risks and Issues for 2021/22 and endorsed an enhanced approach to horizon scanning. In relation to strategic risks the Executive have committed to further work to provide indicative actions to drive residual risks towards targeted scores.

The results of the recent risk culture survey highlight existing gaps in relation to the risk maturity / culture although the wider risk improvement plan centres on improving this and a number of steps have already been made since this was completed.

There have been no new audit reports issued since the publication of the COVID-19 Business Continuity Audit in August. A number of audit actions marked as overdue, although revised completion dates for these have been set. Progress has been made with the Governance & Contracts Project with Policy Development & Review procedures updated in readiness for the wholesale policy review later this year which will address organisational risks associated with out of date policies.

Office re-opening and future ways of working

Edward House re-opened to all staff from the start of August with staff encouraged to return on a voluntary basis as part of a 3-month trial. Covid secure measures remain in place with the 2m distancing rule being relaxed at the start of September to allow for better use of meeting rooms to support collaborative working (size of desks mean that 1m distancing will apply during normal office working). During the last 2 months, attendance in the office has increased at points but remained at lower than anticipated levels overall which has prevented assessment of how the office will operate under a revised hybrid working model and to confirm that it is the right model going forward. The pilot has now been extended to the end of December but on a revised basis with staff will required to return to the office for 40% of their contracted days from early November (subject to existing flexible working arrangements in place and reasonable adjustments).

We continue to engage and provide advice and support to staff on this change with initial briefings with line managers and an 'All Staff Briefing' held on 30th September to provide further detail and the reasons behind the decision. Drop-in sessions with senior managers have been scheduled throughout October which will be used to answer any questions or concerns that staff may have in the lead up to returning to the office. Drop-in sessions to be held throughout November and December will capture and respond to feedback provided.