

Meeting	OLC	Agenda Item No.	8
		Paper No.	88.8
Date of meeting	4 June 2018	Time required	5 minutes

<i>Title</i>	Strategic risks
<i>Sponsor</i>	Rob Powell, Chief Executive
<i>Status</i>	OFFICIAL
<i>To be communicated to:</i>	Members and those in attendance

Executive summary
<p>The OLC's risk strategy requires the Board to consider, challenge and agree the risks that could hinder or prevent the achievement of our strategy, and for each strategic risk to agree the risk appetite (the level of risk we are prepared to accept).</p> <p>Our three year strategy requires us to balance risk mitigation with the need to accept a certain level of well-managed risk if we are to make the most of available opportunities in an uncertain external environment.</p> <p>In April, the OLC held a strategic risk workshop. Building on a review of our strategic risks by the executive, the workshop led to development of a more strategic and focused set of strategic risks, underpinned by a set of corporate risks which will be overseen by Management Team and reported to ARAC with the strategic risks.</p> <p>Board members have had an opportunity to comment by correspondence on the proposed strategic risks and risk appetites for 2018-19, and helpful comments have been built into the proposed strategic risks.</p> <p>Final proposals for strategic risks for 2018-19 appear at Appendix 1, with the supporting corporate risks at Appendix 2. Board members are reminded of the descriptions for each of the risk appetites in Appendix 3.</p>
Recommendation/action required
<p>We are asking Board to APPROVE the proposed strategic risks for 2018-19 and proposed risk appetite for each strategic risk.</p>

4 June 2018

Strategic risks and risk appetite 2018-19

1. Background

The OLC has a risk and opportunities strategy states that the Board will formally review risk appetite annually. A workshop took place in April to review the strategic risks and risk appetite for 2018-19.

The outputs of that session have been circulated to Board members for comment by correspondence. The proposed response to those comments are summarised in the section below, and final proposals for strategic risks and risk appetite appear at **Appendix 1** for Board's approval.

2. Feedback received on the proposals

Board members' feedback on the draft strategic risks and risk appetite was very positive. Specific points raised appear in the table below, along with our response to that feedback.

Point raised	Response
The extent of our focus on casework could risk failure to feed back to the profession on best practice and so reduce numbers of complaints. Should this be more explicit in the framework (either within an existing risk or as a sixth risk)?	We have added a bullet point to the reputation and credibility risk which states that one possible cause of losing trust and confidence could be if the extent of the focus on casework meant we failed to feedback learning from the scheme.
The first risk should refer specifically to delays in responding to complaints.	We have added this explicitly as a cause of the reputation and credibility risk.
The demand risk, as drafted, does not feel like a stand-alone strategic risk. Also, the risk does not reflect that demand can be too low because of lack of awareness of LeO at the point of need.	Based on the workshop and views of the executive, we feel that demand is a material strategic risk for the organisation. The description has been redrafted to relate demand risk to trust and confidence in the Legal Ombudsman scheme. The cause of the demand now reflects the risks of demand being lower than it should be because of levels of awareness of the scheme.
On risk appetite, should governance have a "minimalist" rather than "cautious" risk appetite?	The executive view is that cautious is the most appropriate risk appetite given the need to accept well-managed risk to address current challenges, and to avoid too great a divergence from the open risk appetite for three of the four other risks.

Should we have a “hungry” rather than “open” risk appetite in several of these risk areas (reputation and credibility, impact, innovation and responding to changing expectations, and operational resources)?	The executive view is that a hungry risk appetite would unreasonably increase the risk of challenge to our decisions and would be difficult to align with the governance risk appetite of ‘cautious’.
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3. Next steps

Subject to Board approval, each of the new strategic risks will be allocated to the Chief Executive or Chief Ombudsman to manage. They will be fully written up in the strategic risk register, which will be presented to Board as part of the Q1 strategic update due for the July OLC meeting.

The corporate risk register will be developed and reported alongside the strategic risk register to each meeting of the Audit and Risk Assurance Committee.

Appendix 1 - Strategic risks 2018-19

Description	Cause	Effects
Reputation and credibility – risk appetite OPEN		
<p>OLC or Legal Ombudsman scheme lose credibility, trust and public confidence</p>	<ul style="list-style-type: none"> • Governance failure • Poor performance, delays in responding to complaints, quality or service delivery leads to detriment to consumers or service providers and high levels of complaints about our service • Critical incidents, including general and specific risks associated with legal challenge • More assertive approach of judiciary or contagion from wider criticism of ombudsman sector • Extent of focus on casework leads to failure to feedback learning from the scheme effectively • Impact of regulatory changes on the market and redress 	<ul style="list-style-type: none"> • Public criticism and loss of trust and confidence in the organisation, impacting our legitimacy, influence and consumer protection • Inappropriate outcomes for complainants and service providers • Perception that the OLC is failing to discharge statutory duties and questions about ongoing operation of the scheme • LSB use of statutory powers/loss of independence • Financial loss or reduced investment
Impact, innovation and responding to changing expectations – risk appetite OPEN		
<p>Failure to innovate, achieve positive impact and respond effectively to a changing strategic landscape and stakeholder expectations</p>	<ul style="list-style-type: none"> • Failure to feedback learning effectively to maximise impact • Failure of horizon scanning to identify, analyse and respond appropriately to changing expectations of consumers, service providers and other stakeholders (eg changes in technology, markets, the economy, regulation, social attitudes, demographics, case mix/complexity) • Failure to look externally to identify innovation, new ways of working locks in existing practices and process 	<ul style="list-style-type: none"> • Negative impact on trust, confidence and legitimacy • Significant change in delivery of redress • Failure to improve performance • Reduced investment in the organisation

Description	Cause	Effects
Demand – risk appetite CAUTIOUS		
Trust and confidence in the Legal Ombudsman scheme is impacted negatively by significant (>10%) unplanned changes in demand	<ul style="list-style-type: none"> Poor forecasting of incoming demand Ineffective horizon scanning processes Political, regulatory or market changes Increasing level of case complexity Multiple bulk incidents 'Failure demand' reduces capacity to provide good service Failure to raise awareness of the scheme leads to lower demand than planned Business planning weaknesses means we cannot balance transformation and business as usual 	<ul style="list-style-type: none"> Poor performance against KPIs and service principles Poor service/experience for customers, and long wait times, and poor customer satisfaction Reduced capacity to improve service/feedback to the profession Loss of credibility and damage to reputation Insufficient resource to deal with increasing demand; VFM risk if demand falls
Operational resources – risk appetite OPEN		
Inability to recruit, develop and retain sufficient skilled people with the right skills values and behaviours	<ul style="list-style-type: none"> Lack of the right skills, capability and capacity Public sector pay constraints prevent us keeping pace in competitive marketplace High workloads cause attrition Failure to develop and market a compelling employee value proposition Limited ability to flex resources Failure to embed values and behaviours Poor leadership, support and line management 	<ul style="list-style-type: none"> Negative impact on performance against KPIs, specifically timeliness Increased pressure on staff leads to low morale, increased sickness and turnover Deteriorating performance, quality and satisfaction damage reputation and confidence Falling customer satisfaction and increased service complaints Cost of quality – rework/waste as a result of poor process, poor execution and poor service
Organisational capability and governance – risk appetite CAUTIOUS		
The organisation (governance, infrastructure, controls, people, process) is not capable of enabling effective delivery of the scheme	<ul style="list-style-type: none"> Failure of internal governance, controls or business planning, including MoJ delegations, fraud or critical incident (business continuity failure, cyber security, data protection) Complex external governance framework Systems and infrastructure not fit for purpose Structure and culture - poor leadership, skills gaps, lack of resilience Failure to manage effectively the transition of CMC jurisdiction to FOS 	<ul style="list-style-type: none"> Reputational damage and loss of trust, confidence and legitimacy Reduced service as a result of organisational failings (process, systems, governance, skills) Failure to protect individuals' data privacy Failure to deliver and demonstrate value for money, particularly benefits of investment in the Modernising LeO programme Failure to secure resources and investment necessary to deliver good service

Appendix 2 – Corporate risks 2018-19

Risk group	Specific corporate risks	New or existing	Proposed risk appetite
Trust and confidence	Legal challenge – the scheme is impacted by significant legal challenge or risk	New	Minimalist
	Transition of CMC jurisdiction fails or is poorly managed	New	Cautious
Delivery of the scheme	Failure to provide consistently high quality of service	Existing	Cautious
	Failure to maximise the impact of our work for the benefit of consumers or providers	Existing	Cautious
Organisational governance	Information technology does not function effectively	Existing	Open
	Management information/data integrity inadequate	Existing	Minimalist
	Our Modernising LeO programme does not deliver the intended benefits	Existing	Open
	Poor business planning compromises performance	New	Open
	Lack of resilience in operational and support functions	New	Open
	Failure to drive the right culture, behaviours and ways of working	New	Open
	Failure to comply with our Public Sector Equality Duty and secure the benefits of diversity and inclusivity	New	Cautious
	Failure to comply with data protection requirements	New	Minimalist
	Failure to manage health and safety risk appropriately	New	Minimalist
	Failure to procure and manage third party suppliers effectively	New	Cautious
Failure to forecast and control costs accurately and demonstrate value for money	New	Minimalist	

Appendix 3 – Strategic risk appetite descriptors

Averse (very low)	Minimalist (low)	Cautious (medium)	Open (high)	Hungry (very high)
<ul style="list-style-type: none"> • Avoidance of risk and uncertainty is a key organisational objective • Minimal tolerance for any decisions that could lead to scrutiny. • Aim to maintain or protect, rather than to create or innovate. • Avoidance of financial loss is a key objective. • Play safe, avoid anything which could be challenged legally, even unsuccessfully. • Avoidance of partnership working. 	<ul style="list-style-type: none"> • Innovation is to be avoided unless essential. • Prepared for very limited partnership working. • Decision-making generally rests with senior management with little further delegation. • Only prepared to accept the possibility of very limited financial loss. • Want to be very confident we would win any legal challenge. 	<ul style="list-style-type: none"> • Preference for status quo and safe delivery options that have a low degree of inherent risk and may only have limited potential for reward. Generally limited tolerance for sticking our neck out. • Prepared for limited partnership working. • Tolerance for risk taking limited to those events where there is little chance of any significant downside impact. • Innovation supported, but only where high confidence of achieving specific short term gains. • Prepared to accept the possibility of some limited financial loss. • Want to be reasonably sure we would win any challenge. 	<ul style="list-style-type: none"> • Willing to consider all potential delivery options and choose the one that is most likely to result in successful delivery. • Strong appetite to collaborate in delivery to capitalise on opportunities to innovate. • Tolerance for decisions with potential for significant risk, but with appropriate steps to minimise any exposure. • Innovation is to be actively pursued - desire to 'break the mould' and challenge current working practices. • Prepared to invest for reward and minimise the possibility of financial loss by managing the risks to a tolerable level. • Challenge will be problematic but we are confident of a successful outcome and that the gain will outweigh the adverse consequences. • Appetite to take decisions with potential to expose LeO to additional scrutiny but only where steps have been taken to minimise exposure • Responsibility for non-critical decisions devolved 	<ul style="list-style-type: none"> • Eager to be innovative and appetite to 'break the mould' by challenging current practices. • Eager to pursue options offering potentially higher business rewards despite greater inherent risk. • Willingness to accept risks of collaborative delivery because potential benefits outweigh the risks. • Action is likely to bring scrutiny of LeO but where potential benefits outweigh the risks. • New technologies viewed as a key enabler of operational delivery. • Prepared to invest for the best possible reward and accept the possibility of financial loss. • Chances or losing a legal challenge are potentially high and consequences potentially serious. But a win would be seen as a great coup or provide significant benefits. • High levels of devolved authority and trust.