

Meeting	OLC Board	Agenda Item No.	5
		Paper No.	126.4
Date of meeting	26 April 2023	Time required	20 minutes

Title	Executive Report
Sponsor	Paul McFadden, Chief Ombudsman
Status	OFFICIAL

Executive summary

LeO reached record performance levels in March to finish off the year on a high and add further weight to the sense of step change made in 2022/23, achieving over 1000 case closures in a month for the first time ever. This took the 2022/23 year end position to a total of 9469 closures, 92% of the Business Plan target of 10244 and a 44% year on year improvement on 2021/22. We also continued to see an improving picture on overall customer experience with March seeing a reduction of 126 days in average end-to-end customer journey times on that achieved for low complexity cases from when the PAP was at its highest point.

1 April saw the new Scheme Rules go live as planned with no substantive issues impacting the launch or reported since. The application of the new Rules will continue to be monitored on an ongoing basis, particularly across Quarter 1.

Assurance on quality, service and customer satisfaction continues to show stable and satisfactory levels and consistent themes coming out. A full update is provided.

Key people metrics continue to show progress with March showing the lowest figure yet in 2022/23 for sickness absence and continued and sustained reduction in overall attrition rates. Investigator attrition has increased with eight investigators leaving in March.

Efforts on the underspend have been a key focus in quarter 4 with the first draft of the year end accounts (subject to further adjustments and audit) showing a £27k below budget underspend.

MoJ have now shared the Civil Service pay remit guidance which is set at 4.5% with some potential narrow scope for additional flexibility through submission of a detailed business case and subject to sign-off Cabinet Office with HM Treasury sign-off. Close contact with MOJ is being maintained whilst consideration is given to an application for flexibility. Attention has also turned to budget planning and options for managing the 2023/24 budget, including any differential between a proposed 8% pay award and the pay remit guidance.

The appointment of an EDI Manager on a secondment basis has allowed the opportunity to review and reflect on EDI activities with a view to reviewing priorities and refreshing the existing EDI strategy and EDI action plans.

Wider updates are provided in relation to other areas, including close off of the GIAA 2022/23 audit plan and strategic risks, and the Chief Ombudsman is happy to respond to any points or update further on these areas.

Recommendation/action required

OLC is asked to **NOTE** the paper.

Executive Report

LeO's Performance

LeO reached record performance levels in March to finish off the year on a high and add further weight to the sense of step change made in 2022/23. For the first time ever LeO passed 1000 case closures in a month, finishing on 1053 case closures against a Business Plan forecast of 871. This number represents the highest ever monthly resolution total achieved by LeO, surpassing the previous high of 840. This performance was underpinned by the highest achieved productivity of the year at 4.96 per investigator in investigations and 10.3 per investigator overall.

March's performance total takes the 2022/23 year end position to a total of 9469 closures, 92% of the Business Plan target of 10244 and a 44% year on year improvement on 2021/22. The average monthly closures in 2022/23 was 789, compared to 542 cases per month in 2021/22 and significantly less in previous years.

The Pre-Assessment Pool (PAP) saw its tenth reduction of the year to 4282 cases. This is a 27% reduction on the PAP from where LeO finished in 2021/22. As previously reported at January meeting Board, we have changed how we report on our caseload to better reflect the changed LeO early resolution process and give a more accurate and meaningful picture of where cases are in that process. Reporting these cases as work in progress reduces the actual PAP figure by 476 cases actively being worked on, meaning that the PAP stands at 3,806.

We continue to see an improving picture on overall customer experience. March saw a reduction of 126 days (33%) in average end-to-end customer journey times for all outcomes on that achieved for low complexity cases from when the PAP was at its highest point in February 2022. At 265 days this is 21% below the low complexity target of 325 days. Customer journey time for early resolution customers reduced from 151 days in April 2022 to 64 days March 2023.

The average resolution time (for all outcomes including early resolution) did increase in March from 87 to 97 days, reflecting the 24% increase in BAU investigation closures and the associated longer investigation times. This is the time for an outcome to be reached after any wait time and once LeO has all information required.

LeO's People

People Performance

The Quarter 4 Performance Report provides a summary of People related activity and performance. Our key people metrics continue to show encouraging signs of progress and return on the work and investment in change in HR over the last year. Sickness absence levels have shown sustained reduction across 2022/23 with March showing the lowest figure yet over the last year despite a slight increase in February.

Quarter 4 also saw continued and sustained reduction in overall attrition rates, having now fallen steadily for eight consecutive months and standing at 18.7% in March. Investigator attrition has increased, however, despite sustained reduction for a number of months from the end of Quarter 2. Eight investigators left the business in March, for a variety of reasons previously flagged to Board but many related to progression and pay. This has negatively impacted on the investigator attrition rate which had been falling from a peak of 28.5% in September 2022 but now stands at 26.2%, compared to 24.9% at the start of Q4.

Recruitment activity has continued across both Operational and Corporate areas. Following a successful recruitment campaign in February, we have appointed 28 investigators with start dates in April and May. We have also made appointment on secondment to Operations Manager and Team Leader posts to cover for the appointment of the new EDI Manager on secondment. A number of corporate posts remain live or at screening or interview stage across HR, Business Intelligence, ICT, project management and Legal.

LeO continues to make significant progress on a wide range of key People Strategy activities, including the ongoing roll out of LeO's Leadership Development Programme, comprehensive review of recruitment and payroll, review of employee benefits and benchmarking and review of LeO's structures for engagement with staff through Staff Council and networks. The 'Moderate' rating received in relation to GIAA's audit of performance management framework is welcome recognition of the framework implemented in Quarter 3 and the efforts that have gone into successful development and roll out of this.

LeO's focus on Equality, Diversity & Inclusion

Mark Persard, Operations Manager, has been appointed as EDI Manager on a secondment basis. The initial focus for the EDI Manager has been working with the Network Co-Chairs to understand current EDI activities and reviewing priorities with a view to a fuller review of the existing EDI strategy and EDI action plan.

Board will also be aware of the launch of our reverse mentoring programme pilot, launched alongside a traditional mentoring pilot, which will seek to match OLC Board and the Executive Team with LeO staff. We expect the first mentoring sessions to start in May, and the last one to end in October (one session per month for six months).

A range of EDI and inclusiveness activities and events continued to take place across Quarter 4. This has included Neurodiversity (ND) Celebration week in March which saw a successful 'Ask me Anything' event, inviting LeO employees to learn more about neurodiversity, and the launch of a channels of engagement open to all across LeO who are neurodiverse, or who care for someone who is neurodiverse, to give opportunity to share experiences and ask for advice/support.

We also recognised Women's History Month and International Women's Day in March. This included the Women's network sharing inspirational quotes and blogs weekly throughout March, alongside related blogs. On International Women's Day we hosted a 'drop-in' coffee morning and networking activity which were also opened up to male and non-binary colleagues to ensure inclusivity.

Various EDI blogs/articles have been published by network members and LeO colleagues relating to Ramadan, Easter, Autism Acceptance Awareness as well as weekly impactful article spotlighting Health and Wellbeing in News in Brief.

Hub and Accommodation Strategy

The Executive's programme to oversee development of LeO's future ways of working and accommodation options continues to progress. This will set the direction for a future ways of working strategy and consider options that will align this with the expiry of the current Edward House lease in August 2024. This includes consideration of future hybrid working arrangements, a key driver for defining future office space and facilities.

Input from staff will be critical to this process. Discussions with Staff Council were held in February to begun that engagement and to agree how best to further engage with staff. A staff survey and communication will be issued shortly to all staff to help inform decision making over the coming months with further ongoing engagement to be determined at a later point.

Engagement has continued with the Government Property Agency (GPA). GPA are strongly advising that recently introduced guidance requires all new ALB lease arrangements be part of wider government estate with less scope to use private office space. We are pushing back on this, given LeO's status as a levy funded body but it is clear that we may be subject to tighter restrictions on options for future space. The Head of Programme Management and Assurance is also in regular engagement with MoJ, who have appointed a property agent to lead on sourcing accommodation options for LeO's assessment. Regular meetings are now in the diary with MoJ and wider LeO colleagues, with emerging options expected to be presented for consideration at the end of April.

Quality, Service and Legal

Quality

The Quarter 4 quality assurance reviews shows that performance against key quality metrics has remained, broadly, stable. The results did show a slight drop in performance against service metrics in the Resolution Centre which, whilst disappointing, highlights themes for improvement which are recognised and consistent with previous quarters, in relation to communication and delay. Plans are already in place to start addressing those issues and we hope to see an improvement in performance in those areas over the coming quarters and as wait times continue to reduce.

In terms of the reasonableness of outcomes, Ombudsman performance returned to the higher levels seen in earlier quarters. Although performance against this metric in the Resolution Centre needs attention, assurance is taken from the fact that the right decision is still being reached with the key issue remaining not the outcome reached but rather the processes that are followed in reaching that outcome. Our operations teams will be continuing to work to address these procedural shortcomings over the coming months.

Customer satisfaction

Customer satisfaction data for Quarter 3 considered, for the first time, all case closure routes across both BAU and FET, including dismissals, which have not historically been captured even after investigation. Performance against the Customer Satisfaction KPIs remains consistent and again highlights that outcome is a very stark, polarising driver behind satisfaction or dissatisfaction with the service received. What a more granular review of the data shows is that levels of satisfaction are also driven by when the outcome is received. LeO's customers are generally more satisfied with the service they receive if they receive an early resolution (irrespective of the outcome) to their complaint compared to when the outcome comes after a long wait in the PAP or a lengthy investigation. Therefore, the work being done to further improve the customer journey by reducing wait times and increasing operational efficiency is likely to also have a positive impact on overall levels of customer satisfaction. These results are set out in detail in the Quarter 4 Performance Report.

Service complaints

The service complaints team, now fully resourced, is continuing to make good headway in reducing the number of customers waiting for us to consider their complaints about LeO's service. The number of new complaints and the number of complaints concluded continues to be high, reflecting the significant increase in case closures across 2022/23, although the bulk of service complaints continuing to be resolved at Stage 1 also reflects well on the standard of complaints handling by the team. The trends seen from service complaints remain as in previous quarters – communication, delay and a lack of updates. The work on these areas as noted above will help drive improvements and hopefully start to reduce the numbers of new complaints about those issues being escalated to the service complaints team.

Legal

The Legal Team continues to deal with the more formal challenges to LeO's decisions as well as the enforcement of Ombudsman decisions and outstanding costs. Over the course of the last few months the team has handled 11 pre-action letters, the majority of which have related to the application of our discretion to dismiss complaints. They are also handling eight ongoing formal Judicial Review claims with the support of external counsel where appropriate. The Legal Team have also been actively involved in advising on wider legal questions across the business, including in relation to LeO's ability to outsource complaint investigations and approaches to investigation and the application of reasonable adjustments in some of our most complex and challenging cases.

Implementation of new Scheme Rules

The revised Scheme Rules went live as planned on 1 April. Thanks to the effort of the project team and others across the organisation, the launch was a success with no substantive issues impacting the launch or that have been reported since go live. The application of the new Rules will continue to be monitored on an ongoing basis, particularly across Quarter 1, with interventions to be put in place if any issues come to light in the coming weeks.

Thanks to the work of the project team we now have full and clear oversight of all new cases coming into the organisation and can identify those that fall outside of the new time limits provision. An inclusive approach is being taken to the exercise of discretion to extend time limits in the initial period post-launch. As the months progress further data will be gathered to better enable assessing impacts and forecasting changes on demand. We are also now actively monitoring the diversity of customers using our online complaint checker and this data will start to provide significantly improved insight into LeO's customers and, potentially, groups of people who do not utilise LeO's service. We remain on track to be able to report to Board at the end of Q1 on the impacts of the Rules.

Even though the new rules have gone live we will continue to engage with the sector to ensure that they are updating their client information and that they understand what the new Rules mean for them. We will be continuing with the training of our staff around the application of the new Rules and will be progressing with a sign off process, particularly for our Ombudsman cohort, so we can be assured that our Rules are being applied fairly and consistently.

Alongside the ongoing work around the implementation of the new Scheme Rules, consideration now turns to Stage 2 of the Scheme Rules review. Key areas of focus in scoping will include delegation of ombudsman decision making, the application of case fees, the scope for outsourcing of investigation work and potentially other wider ranging issues such as voluntary jurisdiction, third party complaints and powers to support future ambitions on learning and insight and complaints standards. This is a long-term piece of work which, given its strategic nature, will require significant engagement with stakeholders and the sector as a whole. Any proposals would be subject to extensive consultation which will likely be longer in duration than was the case for the Stage 1 review.

Strategic and Business Planning

Building on the OLC Board workshop in February, the Executive Team met on 19 April to consider Board's steer and wider key questions on the development of OLC's 2024-27 strategy. This considered the broad areas of ambition captured from the workshop along with key questions on potential future priorities and levels of ambition and what would be required to achieve these across the three years. A summary of key points from the Executive Team discussions will be provided verbally at the April Board meeting. A further, separate Executive Team discussion will also be held on the detail of LeO's potential ambitions around transparency, insight and engagement (currently "priority three") programme, recognising the need to define and shape potential options for this work in light of views from the OLC Board workshop, LSB and wider stakeholder demands and LeO's own previous commitments in this area.

Consideration was also given to the internal and external engagement required to support the strategy development process. This recognised the need for early and meaningful consultation with LeO's people and key stakeholders, including the LSB, ahead of the formal public consultation process in the autumn.

Finance

2022/23 outturn

Significant efforts have been made over the last quarter to minimise potential underspend with efforts to divert underspend coming from staff vacancies to appropriate activities such as overtime, HR advice and support, board effectiveness review, research on quality assurance, and other areas. The first draft of the year end accounts has been prepared (subject to audit) with actual expenditure currently showing a £27k below budget underspend. This outturn takes account of a number of adjustments and reassessments of significant payments as detailed in the Quarterly Performance Report. There may be some adjustments as we finalise the accounts.

Case fee income is £380k lower than budget this year reflecting the increase in early resolution closures which do not attract a case fee. This shortfall in case fee income will affect the levy income, adding 2.7% to the 2022/23 budgeted levy.

During the year, the finance team have been focused on improving financial processes and payments and this can be seen in the improved days to pay metrics with sustained improvement throughout the year to 96% in Quarter 4.

Civil Service pay remit guidance 2023/24

The first draft of the year end accounts has been prepared (subject to audit) with actual expenditure currently showing a £27k below budget underspend. This outturn takes account of a number of adjustments and reassessments of significant payments as detailed in the Quarterly Performance Report. There may be some adjustments as we finalise the accounts.

MoJ have now shared the Civil Service pay remit guidance which outlines the parameters on ALB pay awards and total salary costs for 2023/24. The guidance allows public bodies to increase their total salary bill by up to 4.5% with additional flexibility to make awards up to a further 0.5%, to be targeted at lower pay bands. Further clarity is being sought from MoJ on some points including levels being considered as lower pay. Once received, urgent attention will be given to preparing the pay remit for submission, recognising that approvals can take some time before we can deliver additional pay to staff.

The pay remit guidance does leave open the possibility of a bid for a higher pay award, such as increasing LeO salaries by 8% as per the LSB approved budget. Indications from MOJ discussions to date is that such an increase would be an exception and would be expected to be cost neutral. Any such bid for an increase above pay remit guidance – whether that be for 8% in 2023/24 or consideration of a plan to bring LeO closer to the median over a longer period of years - would require a detailed business case to be approved by the Cabinet Office with subsequent sign-off by HM Treasury. The OLC Chair and Chief Ombudsman have been in discussions with MoJ around pay remit, the challenges faced by LeO in recruiting and retaining staff and wider strategic finance questions. Close contact with MOJ is being maintained whilst consideration is given to an application for flexibility.

2023/24 budget options

With broad clarity on pay remit guidance now being received, more detailed attention has also turned to budget planning and managing the 2023/24 budget, including the differential between a proposed 8% pay award and the pay remit guidance. The extent of the additional budget will vary depending on the application of the 0.5% for lower paid staff and the outcome of any application for additional pay remit flexibility but is likely to amount to between £400 and 450k.

There are a number of options being explored for the utilisation of this budget, subject to discussions with OLC Board and LSB. These include:

- Explore further monetary enhancements including through improved Employee Value Proposition. The scope of this option is likely to be limited given that such enhancements – including, for example, additional annual leave - tend to fall within the scope of pay remit.
- Increase operational staffing to accelerate trajectories. This option is being assessed in terms of additional benefits to performance trajectories and value for money as well as the impact on future years staffing levels.
- Increase budget for additional focus on learning, impact and insight work under Business Plan Priority 3.
- Not using all of the approved budget, effectively not drawing down on funds from the sector with a lower levy fee.
- A combination of the above.

Many of these options come with potential positive outcomes but also risks and potential challenges. We will update Board in due course and will be engaging with both MOJ and LSB throughout this process.

We will also continue to engage and update staff on progress. Throughout, we have been transparent and clear on the challenges in the multi-layered process and the potential range of outcomes from this. The Executive Team remain focused on the best possible outcome for our people and for LeO's overall competitiveness in the labour market to minimise impact on attrition and trajectories.

Risk, Audit & Governance

Strategic Risks and Risk Management

The Executive Team met at the end of March to review the 2022/23 year-end and 2023/24 forward look positions on Strategic Risks and Issues. The year-end position shows:

- Strategic Issues One and Two (PAP backlog; and People) and Strategic Risks One, Five and Six (operational performance, leadership resilience and budget variance) all maintaining their previous reported score.
- The Executive agreed that Strategic Risk Four (scheme rules) should reduce in scoring as a result of the successful implementation and launch of the scheme rules changes – this will be marked as closed as of the end of March.

- Strategic Risks Two and Three (managing transformational change and framework of governance) have reached their target score (or lower than this). The Executive agreed for both risks to be closed from the Strategic Risk Register as at the end of the year.

In terms of Strategic Risks for 2023/24, Strategic Issues One and Two, and Strategic Risks Five and Six will be transferred to the 2023/24 Strategic Risks and Issues. In addition, a new issue (Strategic Issue Three) has been added. This relates to challenges with attrition in operational roles (BAU investigators). A new Scheme Rules risk will be added focused on the risks associated with delivery and monitoring of the new scheme rules. Both closing and opening strategic risks will be presented at the May meeting of ARAC.

The annual update and review of the Assurance Map is being undertaken and will also be presented to ARAC at the next ARAC in May. This is a comprehensive review and assessment of all forms of assurance across strategic themes and business areas. Early indications show there has been a positive improvement in some of the risks themes as a result of the joint efforts between risk owners and Risk Manager in linking assurances from various sources (including Internal Audit actions) to key organisational risks. This provides further evidence of the shift in LeO's risk management culture on the back of the positive GIAA Risk Management audit.

Audit

GIAA have completed the 22/23 audit programme and recently provided the final report on their Service Complaints and a draft report on the Performance Management Framework. Both audits have achieved a moderate rating, with mostly low level recommendations which have been agreed by the Chief Ombudsman and will be actioned over the coming period. These ratings are positive – particularly given the resource challenges in both the Service Complaints and HR teams – and given that the performance management framework was only implemented and rolled out towards the end of last year. Both reports will be presented in full at the May meeting of ARAC.

The 2023/24 GIAA audit plan has now commenced with final terms of reference shared by GIAA in relation to the Performance Reporting audit which will commence in April.

2022/23 Annual Report & Accounts

Following February's OLC Board workshop, excellent progress has been made in producing the first draft of 2022/23 Annual Report and Accounts (ARA), taking account of Board feedback on messaging and tone and co-ordinating input from across the Executive. A detailed first draft is provided for Board's feedback, a month earlier than previous years to help achieve the tighter process timescales this year. Year-end data is currently being collated and verified before this is added to the report which will also be subject to ongoing refining and development on the back of further feedback.

The Executive have procured and engaged content designers from the Government Digital Service's (GDS) Framework (*Scroll*, recognised specialists in designing content to GDS standards) to add resilience to drafting capacity and provide editing and proof-reading services as we prepare the report for final sign-off in June.

The Finance Team have been engaging with External Audit colleagues and everything remains on track for the audit to commence on 9 May. Engagement with the National Audit Office (NAO) and HH Global (printers) has confirmed that any delay between the Comptroller and Auditor General signing and laying will not be a cause for concern.

External & Stakeholder Engagement

Stakeholder engagement remained a significant focus throughout Quarter 4, particularly in relation to a number of key delivery points, including the publication of the 2023/24 Business Plan and the go-live of the Scheme Rules changes on 1 April.

Law Society engagement

In January the OLC Chair and Chief Ombudsman welcomed the President of the Law Society and colleagues to Edward House. We have had a positive relationship with the Law Society's Regulatory Processes Committee (RPC) and policy team over the last two years, but this was an opportunity to engage directly with the society's President and provide more detail on LeO's improvement journey, the success the early resolution initiatives, quality and customer satisfaction and the proposed budget for 2023/24 - including challenges faced in the labour market. The feedback was positive, with the Law Society keen to look at ways of collaborating to deliver training to the profession on LeO's new operational processes.

The President of the Law Society subsequently invited OLC Chair and the Chief Ombudsman to attend a full Law Society Council meeting in March to provide its members with an in-person update on LeO's progress. This provided an opportunity to speak directly to members of the profession, demonstrate the impact of operational changes on providing a better customer experience, and address directly questions around the complaints and issues that LeO sees. There was a sense of encouragement from members on LeO's direction of travel along with a clear interest in doing more to share learning and feedback with the sector.

Bar Standards Board

On 30 March, OLC Board members and members of the Executive Team joined a Bar Standards Board and OLC Board to Board meeting. As well as providing an update on LeO's improvement and progress on performance, the meeting focused on areas of work where the BSB and LeO could work together, including through better intelligence sharing, making effective use of complaints' information, and through improving public understanding of the roles of regulators and the Legal Ombudsman.

The meeting was well received by both organisations who will continue to engage on areas of joint interest.

Challenge and Advisory Group

On 23 February, LeO held its third Challenge and Advisory Group meeting of 2022/23. This meeting focused primarily on a number of key assumptions which underpinned the draft trajectories and the revised forecasts for performance in 2023/24 before the

Business Plan went out to full publication. A number of questions were raised around what this meant for the backlog and when a working level pre-assessment pool (PAP) would be reached. The discussion also focused on better defining and articulating customer journey times and LeO's revisions to how it reports cases within the PAP that are being actively worked on in early resolution.

Discussions also focused on the budget, specifically the pay remit proposals and the impact pay restrictions are having on operational performance.

Service Provider Group

On 24 March LeO hosted its second Service Provider Forum. The first and most substantive area of discussion was LeO's performance and changes to ways of working. Echoing previous sessions, there was broad positive feedback about improvements at LeO and the approach to early resolution. While the tone was very constructive, there were some questions around the point up to which providers can give further evidence or make offers to settle, and perceived inconsistencies in what LeO considers a reasonable offer. Assurance was provided around factors we consider. Providers reflected positively on how LeO had responded to practical operational changes suggested at the last meeting.

Other discussions focused on providing an overview of the 2023/24 Business Plan and budget and on the Scheme Rules changes, including signposting to ongoing support for providers and providing clarification about when the 'clock' starts and the discretion we can exercise.

The OLC Chair and Chief Ombudsman have continued to engage with the LSB and MoJ in the last quarter of 2022/23 both as part of the Business Planning approval process and more specifically on broader strategic finance questions around LeO's funding and adherence to pay remit guidance. Meetings have also included the regular LeO/LSB Chief Executive meeting and the latest MOJ Business Assurance Meeting.

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

Further stakeholder engagement meetings, including engagement through LeO's learning and insight work

Date	Meeting	Purpose	Online/in-person
Jan- Mar	Online training delivered	Online training events covering: scheme rule changes, good complaint handling, learning from complaints, myth busting and language used in complaints.	Online
28/02/23	Discussion with Law Society regarding collaborative training on LeO's processes	Follow up meeting from the suggestion at the Law Society visit to Edward House	Online
02/03/23	Law Society RPC meeting	Ops Manager attendance at RPC to discuss early resolution	Online
15/03/23	Meeting with British Society of Bangladeshi Lawyers	Discussion on Scheme Rules	Online
17/03/23	Attendance at Law Society Risk and Compliance Conference	Discuss Scheme Rules changes and the work of LeO	Online
22/03/23	Attendance at Law South Group	Presentation to 12 law firms based in South of England to discuss LeO's work, our business process, data, preventing complaints and the scheme rule changes.	

In the coming months LeO will attend the annual Legal Eye Conference and the Liverpool Law Society Conference.