

**Minutes of the ninth meeting**

**Office for Legal Complaints (OLC) Board**

**Monday 22<sup>nd</sup> March 2010**

**11.30am – 3.30pm**

**Baskerville House, Centenary Square, Broad St, Birmingham B1 2ND**

**Present:**

Elizabeth France, Chair  
Margaret Doyle, member  
Professor Mary Seneviratne, member  
David Thomas, member  
Tony Foster, member  
Rosemary Carter, member  
Brian Woods-Scawen, member

**In attendance:**

Adam Sampson, Chief Ombudsman  
Nyall Farrell, Interim Chief Operating Officer  
Liz Shepherd, Interim Programme Director  
Alison Robinson, Head of External Affairs  
Gary Garland, Deputy Chief Ombudsman  
Robert Hezel, Director of Finance and Business Services

**Speaker:**

Ian Watson, Head of ILEX Professional Standards

**Board Secretary:**

Alison Robinson

**Preliminary issues:**

The quorum requirements for the Board meeting were met.  
There were no declarations of interest made.

**Item 1 – Welcome and apologies**

1. Ian Watson was welcomed by the Board and thanked for attending the meeting. The Chair also welcomed Robert Hezel, the new Director of Finance and Business Services.
2. The Chair also noted that it would be Nyall Farrell's last Board meeting. She asked the Board to give its huge thanks to Nyall for being a key part of the start up team, noting his central role in securing an IT system and premises for the new organisation.

## **Item 2 – Presentation by ILEX Professional Standards**

3. Ian Watson spoke about the role of ILEX Professional Standards (IPS). He outlined:
  - how ILEX Professional Standards has recently launched as an independent arm of ILEX;
  - that the main focus of work was on standards though IPS also currently handle complaints – a key aspect of this was looking at conduct complaints made by third parties;
  - IPS also provide training as part of the ILEX qualification in client care and complaint handling;
  - that ILEX has around 7000 fellows in its membership of nearly 30,000. Fellows are the legal executives who are regulated under the Legal Services Act 2007. ILEX members usually work in solicitors' firms;
  - that the ultimate sanction for its members was the removal of membership and the right
  - that at present IPS does not have the range of independent rights that would allow it to be a regulator of legal disciplinary partnerships (LDPs) or a licensing body for alternative business structures though IPS is seeking to grow and become a broader regulator in the future;
  - that IPS anticipated that the impact of the changes of the Legal Services Act and the creation of the Legal Ombudsman would be less upon IPS than possibly on other legal regulators; and
  - that a key change of the legislation is that IPS is likely to get more information about service complaints about its members once the Legal Ombudsman opens than it does now which should assist IPS's work in relation to setting standards and investigating conduct complaints.
4. Members asked questions about the current IPS process for handling service complaints; how IPS currently approached publishing sanctions and warnings to its members; and how IPS currently worked with the LCS to coordinate its approach to both service and conduct complaints. Ian asked Board members to be mindful of the usual status of legal executives as employees of solicitors' firms and that as entity regulation is now paramount that complaints were rarely against individual ILEX members.
5. Ian Watson left members some information about the new IPS Code of Conduct and some general background information about IPS and its approach.
6. The Chair thanked Ian for his presentation and for taking the time to inform members about IPS and its role as part of their induction. The Chair also noted that IPS and the Legal Ombudsman had nearly agreed a memorandum of understanding to guide how we would work together and that specifying the detailed mechanics of how information exchange would work was underway.

## **Item 3 – Minutes of previous meeting**

7. The minutes of the meeting of 22 February 2010 were approved.

#### **Item 4 – Matters arising & action points**

8. The Board noted that the case fee consultation response document had been published. A re-drafted copy of the consultation paper on publishing our decisions was also distributed. Board members were asked to comment on the updated draft and to give their comments to Alison Robinson by Thursday 25 March 2010.
9. The Chair also advised that the executive had had further discussions with the Consumer Panel following the February Board meeting regarding commissioning some research to inform the Board's decision about whether or not to publish our decisions. After some discussion of the different options, the Board asked that the research seek views from consumers and also look to seek views of high street lawyers. Members agreed that the aim of any research should be to add to the evidence base that was either in existence or that would be gained through a consultation process. The Board also noted that the Consumer Panel may have some slightly different objectives in commissioning the research and that as long as the process was transparent any differences between the Ombudsman and consumer panel would be able to be accommodated.
10. The Chair also asked the Board Secretary to circulate the research commissioned by the Ministry of Justice that looked at setting baseline from which to measure the impact of the Legal Services Act 2007 over time.
11. The executive advised the Board that the Deputy Chief Ombudsman had picked up the issue of how insurance would interact with the Ombudsman scheme. He had been engaged with the Solicitors Regulation Authority (SRA) about how Ombudsman awards would be covered by professional indemnity insurance and believed that there are some gaps in current SRA proposals. The Board asked that he continue to engage with the SRA on this issue and also look at the broader issue of how insurance might have an impact on how lawyers' interact with the Ombudsman scheme. For instance, at a recent discussion forum on first tier complaints handling the Sole Practitioners' Group expressed a concern that an insurer may not wish a lawyer to apologise in relation to a complaint as this could be seen as an admission of liability which an insurer would resist. Members asked the executive to engage with insurers citing experience of other industries where insurers had been very supportive of the overall benefits an Ombudsman scheme can bring to a sector or industry.

#### **ACTIONS**

- The Board Secretary to circulate the research commissioned by the Ministry of Justice that looked at setting baseline from which to measure the impact of the Legal Services Act 2007 over time.
- Executive to update the Board once a research specification has been written with the Consumer Panel.
- Deputy Chief Ombudsman to provide a further update on insurance at the next meeting.

#### **Item 5 - Chair's update**

12. A list of meetings that the Chair had attended recently was circulated to members. The Chair reported that, with the Chief Ombudsman, she had attended a meeting of the Legal Services

Consumer Panel and met with representatives of the Shadow Cabinet to explain progress in setting up the new Ombudsman scheme.

13. The Chair also advised the Board that there was now the full executive management team in place. She suggested that it would be worth pairing Board members with management team members to make sure the constructive working relationship between the Board and executive continues. She asked members to talk to her after the meeting to discuss areas of interest acknowledging that there were some natural pairings, for instance between the Chairs of the Committees and those members of the executive responsible for those areas within the Legal Ombudsman.

#### **ACTIONS**

- The Chair to discuss with members areas of interest in working closely with the executive.

#### **Item 6 - Chief Ombudsman's report**

14. In addition to the items contained within his written report, the Chief Ombudsman advised that the first round of recruitment would be launch on 25 March 2010. He advised some final details still needed to be agreed but this was on track for beginning recruitment as planned.
15. The Chief Ombudsman that the key area of risk for the start up of the Ombudsman scheme was now the commencement orders. Due to legislative congestion and the need for complex drafting it was now unlikely that our commencement order would be submitted to Parliament in time to come into force before the election. While the Ministry of Justice continues to give its assurances that this should not delay our go-live in any way, it does add an additional element of risk.
16. The meeting discussed likely impacts and agreed that some contingency planning was needed. The key risk was to budget if we recruited and then did not go-live as planned. The executive agreed to some joint planning with the Ministry to manage this risk.
17. The Chief Ombudsman also reported that a tender process for the design and fit out of the new office was nearly complete. Four of the five companies that bid were able to deliver to time and budget. This meant that the Legal Ombudsman should have partial occupancy in early July 2010 and full possession of the new office by the end of July 2010.

#### **ACTIONS**

- The Director of Finance and Director of Operations to undertake contingency planning in conjunction with the Ministry of Justice to manage any risk associated with the delayed passing of Legal Ombudsman commencement orders.

#### **Item 7 – Draft framework for annual report**

18. The Board agreed the proposed framework for the annual report.

#### **Item 8 – Transition planning**

19. The Chief Ombudsman advised that following the court case an effort was being made to re-establish relationships with the Law Society. He said that we had now spoken to Legal Complaints Service staff twice, once in London and once in Leamington Spa, and had been advised that this had been well received.
20. He also advised that there was some ongoing debate about the detail of the transitional arrangements and that the Ministry of Justice was leading on this work.
21. He also noted that the Legal Services Board was going to take on an oversight role in relation to the closure of the Legal Complaints Service and that this role was clear and distinct from that of the Ministry in determining the transitional arrangements and from the Legal Ombudsman role in setting up the new system of redress.
22. The Board also discussed the relationship with the Legal Services Board now that a Memorandum of Understanding had been in place for a number of months. The Chair asked the executive to let her know of how this had translated into practice so she was aware of progress made before her next meeting with the Chair of the Legal Services Board.
23. The Board agreed that twice a year the Chair should write to the Legal Services Board to advise them on key issues. This should be timed to coincide with the Chair's attendance at meetings at the Legal Services Board. Members considered that this would help to ensure the regular flow of information between the two organisations.

#### **ACTIONS**

- The executive to brief the Chair about the day to day working relationship with the Legal Services Board prior to her next meeting with the Chair of the Legal Services Board.
- Twice a year the Chair to write a letter updating the Legal Services Board on key issues and progress.
- Board Secretary to clarify when the Chair's next meeting with the Chair of the Legal Services Board is due to take place.

#### **Item 9 – Balanced scorecard**

24. The Board noted the revised balance scorecard. The Chief Ombudsman asked for further feedback before a final version was presented to the Board at a future meeting for approval.
25. The Board asked that the scorecard be used not only to track performance but also to forecast and plan mitigation to risk.
26. The Board agreed that a candidate set of key performance indicators should be developed and included in the next business plan so that these would be agreed and in place for the financial year 2011-2012. The first period of operation would be a chance to refine and develop our assumptions once cases begin to flow through the business process. Until then indicative targets would be used to measure performance in the initial months after go-live. All members agreed that it would be important to have something in place to help users of our service understand what they would expect from the Legal Ombudsman.

### **ACTIONS**

- The Chief Ombudsman to revised the balanced scorecard and submit for approval at a future Board meeting including a starting point for key performance indicators that could be used from the outset of operation.

### **Item 10 – Board expenses**

27. The interim Chief Operating Officer advised the Board that the approach to expenses remained unclear as further legal advice would be required if the Board were to be paid from Legal Ombudsman budgets.
28. The Board agreed that the priorities were that an efficient system was in place and that appropriate processes were set up to ensure that expenses were authorised and promptly paid. The Board agreed that whether it was the Legal Services Board or the Legal Ombudsman who paid expenses was secondary.
29. The executive was asked to finalise arrangements with the Legal Services Board as soon as possible.

### **ACTIONS**

- The Board Secretary and interim Chief Operating Officer to finalise an efficient system for Board expenses that guaranteed that appropriate records are kept and the process for authorisation is robust.

### **Item 11 – Finance report**

30. The interim Chief Operating Officer advised that an interim Finance Manager had joined the team and had compiled the finance report. He noted that there had been some re-allocation of costs within budget headings as a result of work to refine financial reporting.
31. He also advised that the National Audit Office had visited the Legal Ombudsman in the previous week. They had raised a few points of process but nothing significant that was cause for concern. The internal auditors would conduct their audit this coming week and would seek to do as much as possible so that the final stages near year-end would be done quickly.
32. The interim COO also advised that the trend in finance was a slow increase in costs which represented the growing staff team. The rent for the permanent premises would be charged from next month in accordance with standard practice. He confirmed that the IT costs were as expected.
33. Board members asked the Finance team to keep a close eye on what was revenue costs and what were capital costs. Board members also queried the budget for legal costs. The interim COO confirmed that the allocation of £100,000 remained and that this should be sufficient to cover any costs not met by the Law Society as a result of the recent legal action.

### **Item 12 – Risk**

34. The Chief Ombudsman circulated an updated risk register which would need some more significant changes to mark the completion of some of the start-up work, before the May Board meeting.
35. On the whole, the risk to the organisation had reduced. The two areas of increased risk were around commencement orders (discussed as part of the Chief Ombudsman's report) and the need to ensure that the pay remit was submitted for approval so as not to delay the start of recruitment.

#### **ACTION**

- The Chief Ombudsman to revise the risk register.

### **Item 13 – Scheme rules consultation paper**

36. The Board agreed the content of the paper and asked that the Head of External Affairs to revise some of the language in the paper. The Board agreed that the Chair would give her final approval to allow the paper to be published on the website as soon as possible.

#### **ACTION**

- The Head of External Affairs to revise the scheme rules consultation response.

### **Item 14 – Report from Committees**

37. The Chair of the Audit and Risk Committee advised that a meeting was scheduled with the National Audit Office to set the rhythm and tone of this relationship. He advised that a clear route map was being prepared so that both the NAO and internal audit work would be done proactively and was well managed as the next three months were a key period in the work of the Committee.
38. The Board noted that Mary Seneviratne had attended a training day for Audit Committee members at the National School of Government earlier in March.
39. It was reported that the Remuneration and Nomination Committee (RemCo) had met again since the last Board meeting. There had been a considerable amount of work to allow the first wave of recruitment to begin.
40. The Chair of the Remuneration Committee outlined the key decisions that the Committee had taken since the last Board meeting:
- Standard Life has been nominated as the preferred supplier for pensions with an implementation plan in place to allow employees to take up this benefit from April 2010;
  - a season ticket loan system is being implemented;
  - job descriptions and salary bands have been agreed to allow the recruitment campaign to commence on 25 March 2010;
  - the remuneration supplement has been agreed; and



- agreement to a set of core benefits including 26 days annual holiday, up to 10% pension contribution and death in service benefit as well as a range of flexible benefits (these will be specified later in the year to allow employees to be consulted on what is included in the range of benefits offered).

41. The Board thanked the Committee for its work and agreed the package of proposals made. A copy of the advertisement that would appear in the newspapers would be circulated to the Board in advance of it being published, this would provided the detailed information on job descriptions and salary bands

#### **ACTIONS**

- The executive to circulate the finalised job advertisements prior to them being published.

#### **Item 17 – Future agendas and any other business**

42. The Chair noted that Justice Minister Bridget Prentice would open our new office on 25 March 2010.

43. Members noted that the next Board meeting would be held on 19 April 2010 commencing at 11.30am at Baskerville House in Birmingham.

Alison Robinson  
Acting Board Secretary  
29 March 2010