

**Minutes of the Sixty-Fifth Meeting of the
Office for Legal Complaints (OLC)**

Wednesday 22 July 2015

12:15 – 16:00 pm

Legal Ombudsman, Birmingham

Present:

Steve Green, Chair
Caroline Coates, member
Bernard Herdan, member
Michael Kaltz, member
Tony King, member
Jane McCall, member
Professor Philip Plowden, member

In attendance:

Ian Brack, Interim Chief Executive
Kathryn King, Interim Chief Ombudsman
Freda Sharkey, General Counsel
Ken Young, Interim Head of Policy and Communications
Paul Partridge, Head of Finance (*items 1-4 only*)

Apologies:

Dame Ursula Brennan, OLC Accounting Officer
Karen Silcock, member

Board Secretary:

Helen White

Preliminary issues:

The Board meeting was quorate.

Item 1 - Welcome and apologies

1. The Chair noted the apologies sent by Dame Ursula and Karen Silcock.
2. The Chair noted the standing declaration of interest from Prof Plowden regarding his university's research engagement with Lockheed Martin, which was working with the OLC on the new case management system.
3. Staff made a general declaration of interest for discussions related to Item 1 (Interim Chief Executive's report) and Agenda Item 13 (Organisation Refocus Update).

Item 2 - Minutes of the previous meeting

4. The minutes of the meeting held on 10 June 2015 were approved.

Item 3 - Matters arising and outstanding action points

5. Members noted those items where actions had been completed and those that were included as agenda items.

Item 4 - Comments received regarding items presented for information

6. The items presented for information were noted. No comments had been received in advance of the meeting for circulation

Interim Chief Executive's Report

7. Discussion took place on the review of financial controls and systems. It was noted that tender documents were due to be posted on the e-sourcing portal. The contract award would be made in August with the review being undertaken in September / October.

Staff Benefits

8. Discussion took place on the Flexible Benefits Scheme. The MoJ had proposed an alternative solution which was being investigated although the Chief Executive believed this proposal had employment law implications.
9. Discussion took place on the entitlement of new starters. It was agreed that until the staff benefits were regularised, no entitlement to any benefits scheme should be created in the contracts of new starters. This would then be revisited when the regularised legacy scheme was in place. The Board agreed that any recent or new starters should be fully appraised of their contractual rights.

ACTION:

- **The interim Chief Executive to notify the HR Manager that until the staff benefits were regularised, no entitlement to any benefits scheme should be created in the contracts of new starters.**
 - **The interim Chief Executive to notify the HR Manager that any recent or new starters should be fully appraised of their contractual rights.**
10. It was agreed that the interim Chief Executive would circulate the external legal advice to Board members.

ACTION:

- **The interim Chief Executive to circulate the external legal advice to Board Members.**

Case Management System

11. Discussion took place on the case management system. The interim Chief Executive reported that the system performance had improved. Weekly summaries of system downtime were now being published which showed a positive step change in the number of hours lost due to system issues.
12. The issues around service and support had been escalated to Lockheed Martin, which had committed to provide the appropriate level of support. It was agreed that Lockheed Martin would also undertake a review of the system design to ensure it was robust and appropriately designed.
13. The interim Chief Executive reported that work would now start on the development of the next phases of the system.
14. Members requested that the interim Chief Executive continue to provide regular updates to the OLC Board on the case management system.

ACTION:

- **The interim Chief Executive to continue to provide regular updates to the OLC Board on the case management system.**

15. Jane McCall, the Board lead for technology and change, confirmed that whilst she was satisfied that progress was being made, a longer term technology strategy was needed for the organisation as broader issues around efficiency, productivity and customer facing issues remained.

16. [REDACTED]
 [REDACTED] Members asked that in order to make the best use of public money, the executive review the contract. The interim Chief Executive was asked to update the next meeting. **[FOIA exempt s43(2)]**

ACTION:

- **The interim Chief Executive to update the September OLC Board on the review of the contract terms [REDACTED] [FOIA exempt s43(2)]**

Interim Chief Ombudsman’s Report

17. Discussion took place on the recruitment of a pool of self-employed ombudsman to provide a flexible resource to deal with peaks in workload. Board members encouraged the interim Chief Ombudsman to proceed with recruitment activity as a priority.

ACTION:

- **The interim Chief Ombudsman to continue to explore launching direct recruitment activity as a priority, with reference to the OLC Chair.**

18. Members thanked the interim Chief Ombudsman for the customer satisfaction action grid which they found informative and helpful.

Finance Report

19. Members discussed the Finance Report. Discussion took place on the staffing profile for both CMC and the legal jurisdiction in view of the reduced volumes. It was agreed that Board focus would remain on this.
20. Discussion took place on the CMC budget. It was noted that the 2016/17 budget was due to be submitted to the Department by mid-August.

Item 5 – RemCo Update

21. The RemCo Chair updated members on the RemCo meetings held on May and July. He reported that Staff Council observers had attended the July RemCo meeting. Discussion was held as to whether it would be feasible to invite staff observers to the OLC Board meetings. It was agreed that the OLC Chair, interim Chief Executive and interim Chief Ombudsman would produce a mechanism for this.

ACTION:

- **The OLC Chair, interim Chief Executive and interim Chief Ombudsman to produce a mechanism for staff observers to attend the OLC Board meetings.**
22. It was noted that RemCo had fully supported the staff survey action plan. Executive would now ensure this was delivered with quarterly 'pulse' staff surveys implemented. It was noted that a leadership development programme for the management team was also being developed.
 23. The RemCo Chair reported that discussion had taken place on the people performance KPI suite. These were to be refined and represented to RemCo.
 24. It was noted that RemCo had discussed the organisation refocus proposals and had requested that business cases were produced for all additional roles. RemCo agreed the importance of outlining the need for additional roles to meet the increased workload from the Department.
 25. It was noted that RemCo had discussed the Pay Remit. This would be finalised, once the issues with the flexible benefits scheme were resolved.
 26. The RemCo Terms of Reference had been revised and would be tabled to the September OLC Board meeting for approval. Members were asked to forward any comments on the revised document to the Board Secretary.

ACTION:

- **The Board Secretary to circulate the revised RemCo Terms of Reference for comment.**
- **The RemCo Terms of Reference would be tabled for approval at the OLC Board Meeting.**

Item 6 – ARAC Update

- 27.** The ARAC Chair updated members on the ARAC meeting which had been held that morning. Discussion was held on the corporate risk register. ARAC had agreed to move to a more traditional format for the risk register. It was noted the Head of Finance was to model one risk in the new format and circulate to ARAC members and executive for comment. ARAC agreed that at the next ARAC meeting in October, a detailed discussion would be held on the corporate risk register with subsequent meetings undertaking a cyclical review of parts of the register.
- 28.** It was noted that discussion had taken place at ARAC regarding the risk policy, framework and appetite for risk. ARAC had agreed that further discussion on this wait for the arrival of the permanent Chief Executive who would work with the Board to develop a risk policy.
- 29.** It was noted that the ARAC Terms of Reference had been revised and would be circulated for comment by members. It would then be tabled to the September OLC Board for approval.

ACTION:

- **The Board Secretary to circulate the revised ARAC Terms of Reference for comment.**
 - **The ARAC Terms of Reference would be tabled for approval at the OLC Board Meeting.**
- 30.** The ARAC Chair reported that a risk rating in the KPMG internal audit report had been challenged by ARAC who believed it should be classified as a higher risk.
- 31.** Discussion had taken place at ARAC regarding the issue of presigned cheques. It had been agreed at the ARAC Chair would write to the AO to escalate the committee's concern about this, the financial transaction limits and capital spend limitations.
- 32.** The ARAC Chair reported that discussion had taken place about a number of data security breaches. ARAC had raised their concern at the high number of exceptional breaches. It was noted that none were reportable to the ICO. Professor Plowden stated that risks were being created elsewhere in the business due to the seriousness of the case management problems and that the increase in data protection breaches were an example.

Item 7 – Quarterly Performance Report

33. The interim Chief Ombudsman reported that she had been working with Michael Kaltz and the Head of Finance to integrate performance into one paper. It was agreed that to enable Board oversight, it was important to understand both the input in terms of improving performance and the subsequent outcomes and timeframes.
34. Members agreed that should volumes remain low, this would likely require a review of resource levels. It was noted that operations staff leaving through natural turnover were not currently planned to be replaced. This issue would remain critical in the development of next year's budget. It was noted that the draft 2016 budget would be tabled at the October OLC Board.
35. Discussion took place on the complaint categories and the importance of tracking the impact from the different areas of law. The interim Chief Ombudsman reported that research was being undertaken in this area and a report would be tabled to the October OLC Board.
36. Discussion took place on plans to address performance management and performance improvement across the organisation. Members encouraged the sharing of best practice. Members noted that operational team leaders share best practice amongst the teams with regular communications were cascaded to staff via the weekly News In Brief e-mail communication.

ACTION:

- **RemCo to review performance appraisal and management policies and practice to ensure they are sufficiently rigorous for both operations and support staff.**

37. The positive effect of the integration of the ombudsmen into the operational teams was noted by members. It was agreed that the interim Chief Ombudsman would investigate other actions which could be taken to speed up the transition to the new model and would provide an update to the September OLC Board.

ACTION:

- **The interim Chief Ombudsman to provide an update to the September Board on actions which could be taken to speed up the transition to the new model.**

38. Discussion took place on CRM performance. It was agreed that statistics were needed to reflect CRM performance, including information on service disruption, target service levels and trends. It was agreed the interim Chief Executive would provide an update for the September OLC Board.

ACTION:

- **The interim Chief Executive to report back to the September OLC Board on the availability of statistics to reflect CRM performance, service disruption, target service levels and trends.**

39. Discussion took place on the Ombudsman work in progress levels. The interim Chief Ombudsman reported that work continued to increase resourcing across the Ombudsman team through the addition of a twelve month fixed term ombudsman.
40. Members noted the significant work being undertaken within the organisation to enable the delivery of the full benefits envisaged from the case management system.
41. Members noted the work being undertaken by the Customer Experience team to help to develop a new feedback mechanism to allow responsive and appropriate feedback for investigators and assessors.
42. Members noted that timeliness continued to be impacted by the recent issues with the case management system. It was noted that the timeliness KPI measure was missed, resulting in complainants having to wait on average an additional two weeks.
43. Discussion took place on the timescales for a formal review of the KPI suite. Members agreed on the need to drive performance up whilst driving down consumer detriment.
44. Members welcomed the inclusion of statistics to reflect the cost per legal complaint for both the Assessment Centre and Resolution Centre. It was agreed this would provide a valuable management tool.
45. Discussion took place on potential risks to the CMC income stream. It was agreed that focus needed to remain on ensuring a strategic overview of the CMC financials and resourcing levels.

Item 8 – Equality and Diversity Update

46. The OLC welcomed Baljit Kaur, the Equality and Diversity Manager, to the meeting to provide an overview of the key E&D activity taking place.
47. Discussion took place on the positive action strategies being implemented to attract under-represented groups within the organisation. It was noted that the organisation needed to test and trial different methods of recruitment to ensure that the methods used are the most effective in achieving the under-representation objectives.
48. Members noted that the Policy and Communications team would be doing further research later in the year on the Gender/BME findings. Members welcomed sight of the research findings in due course.
49. Discussion took place on succession planning within the organisation and whether there were robust structures in place. Members were keen to have sight of data regarding internal progression. As there was a close linkage to

RemCo, it was agreed that the E&D Manager would be invited to future RemCo meetings.

50. Discussion took place on the collection of E&D data for the CMC jurisdiction. It was noted that in the legal jurisdiction, this information was collected when the case was accepted for allocation. Members noted that part of the rollout of phase 2 of the case management system implementation, would be for the system to automatically send email/postal forms out where we had not collected this data over the phone, therefore maximising the collection rate. However, system issues had delayed the rollout. The E&D Manager was asked to ensure the Board were sighted on progress on this issue.

Item 9 – General Counsel Quarterly Update

51. Discussion took place on the General Counsel's quarterly update.
52. It was noted that to address the key issues arising from judicial reviews, training would be provided for key staff to reinforce reasoning in decisions.

Item 10 – Outcomes and Customer Satisfaction Update

53. The interim Chief Ombudsman updated members on trends arising from the customer satisfaction data.
54. It was noted that work continued to address the issues raised by the customer survey data in order to develop a more sophisticated approach to understanding the customer experience. The interim Chief Ombudsman reported that trends in remedy patterns would continue to be monitored and material changes reported back to the OLC.

Item 11 – EU ADR Update

55. The interim Head of Policy and Communications reported that an application had been submitted to the Legal Services Board for certification as an ADR entity under the requirements of the Regulations to implement the EU ADR Directive. The LSB had responded with a number of clarification points which were currently being addressed.
56. The 90 day test for the ADR Directive started later in the life-cycle of a complaint than the test used in the organisation's current KPI; so the OLC 90 day KPI would not change but would require an additional need to monitor and to meet the ADR 90 day requirement.
57. It was also noted that in order to conform to the Regulations, technical changes needed to be made to the Scheme Rules. It was noted that changes to the Scheme Rules could be made up to 9 January 2016.

58. Discussion took place on the proposed changes to the Scheme Rules and the potential impact becoming an EU ADR entity would have on existing time limits. It was noted that there were nothing in the Directive which would affect existing file retention processes within the legal profession. Caroline Coates emphasised that the profession would need to be given clear guidance on how this might affect them.
59. It was noted that the next steps would be for a consultation to take place on the organisation's approach to implementation. This would outline what the proposed changes would mean in practice. Members noted that a fair line had to be drawn between the consumer and profession.
60. Members approved the proposed changes to the Scheme Rules and that a consultation would take place on the proposed approach to implementation.

ACTION:

- **The interim Head of Policy and Communications to proceed with the consultation on the changes to the Scheme Rules.**

Item 12 – Delivering Our Strategy

61. The interim Head of Policy and Communications presented an update on progress made against delivery of the organisation's strategic priorities. Members agreed that it was important to track outcomes.
62. Members noted that the new Secretary of State had announced that there would be a review of the Legal Services Act in this Parliament.

Review of Scheme Rules

63. Discussion took place on a wider review of the Scheme Rules. Formal consultation was due to take place in late January 2016. Members noted that this review had been decoupled from the scheme rules changes required to comply with the Regulations to implement the EU ADR Directive.
64. It was noted that pre-consultation discussions with stakeholders were due to take place over the summer with a paper due to be tabled to the October OLC Board.

Third Party Complaints

65. Members noted that additional analysis on third party complaints would be brought to the OLC Board in the autumn.
66. Members requested that the interim Chief Ombudsman should circulate case studies to Board members in advance of the analysis.

Publishing Decisions

67. Members noted that a thorough review of the Publishing Decisions policy was being carried out in 2015/16. Members expressed concern that the level one thresholds were set too high. A set of proposals were due to be presented to the OLC Board in autumn.

Voluntary Jurisdiction

68. Members noted that an update would be made to the OLC Board in the autumn.
69. It was agreed that an update on strategic priorities would continue to be made quarterly.

ACTION:

- **The Board Secretary to add a quarterly review of strategic priorities to the Board forward plan.**

Item 13 – Organisation Refocus Update

70. The interim Chief Executive updated members on the actions taken in relation to the refocus exercise. He reported that the job description and salary benchmarking for the Director of Corporate Services role were with RemCo for approval. The draft business case was to be completed. It was noted that work still needed to be done to finalise the roles which would sit within the 'CEO office'.
71. It was noted that a Special Assistant would be recruited to provide senior level support in the short to medium term. A business case would be written by the interim Chief Executive.
72. Members noted that the internal communications function had been combined with Policy, Communications and Research. The recruitment of an interim Head of Policy, Communications and Research was going ahead. Professor Plowden requested that as the Board lead on research, he be kept updated on this role.

Item 14 – Any Other Business

73. Discussion took place on the importance of external benchmarking of judicial review and equality and diversity issues from comparable organisations and other ombudsman schemes. It was agreed that this information would be useful for members.
74. Discussion took place on the Annual Report on the Welsh Language Scheme. It was agreed this would be circulated and approval via e-mail correspondence.

75. The OLC Chair noted that this would be the interim Head of Policy and Communications' last Board Meeting. On behalf of the Board, he thanked the interim Head of Policy and Communications for everything he had done during his time with the OLC and wished him well in his future endeavours.

76. The OLC Chair reported that a draft OLC Forward Plan was being developed which would be tabled to the September OLC Board.

Next meeting

77. The next OLC meeting would be held on Tuesday 15 September in Birmingham.