

Minutes of the fifth meeting

Office for Legal Complaints (OLC) Board

Monday 23 November 2009

11.30am – 3.30pm

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

Present:

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

In attendance:

Adam Sampson, Chief Ombudsman
Nyall Farrell, Interim Chief Operating Officer
Liz Shepherd, Interim Programme Director
Lesley Hancock, Head of Human Resources (Agenda Item 6 only)
Chris Charman, Towers Perrins (Agenda Item 6 only)

Secretary:

Alison Robinson, Policy Manager

Pre-Board presentation

The OLC's partner agency, *the team*, presented the proposed logo, design and colours, and some suggestions for how these could be used, for instance in publications and on a website. The Board noted that this option was the one that the executive believed best captured the image of the ombudsman scheme and that *the team* had been asked to refine and develop to present to the Board meeting. The objectives were for the ombudsman scheme to project a modern, bright, open organisation, reflect our independent and authoritative status as well as be accessible.

It was formally noted that the Board had decided on the name the Legal Ombudsman by consensus between Board meetings as it was thought to be the most user-friendly name of the options presented.

The Board approved the proposed brand, and asked the agency, with the executive, to refine and test the mark. In particular, the Board asked the executive to ensure that it could demonstrate how much the brand had cost to develop, and to test the brand to make sure it was practical and easy to use, and in particular that it is accessible to those with disabilities, both in printed form and electronically.

The Board noted that the plan was to launch the name and mark before Christmas, along with announcing the permanent home of the Ombudsman scheme. This would lead in to promoting the scheme to lawyers in the spring of 2010, soon after the period of mass recruitment scheduled for early in 2010.

ACTIONS

- With *the team*, test the logo and proposed colours to make sure they reproduce well, and in particular that it is accessible to those with disabilities, both in printed form and electronically, and to make sure that it is cost effective to reproduce the mark.

Item 1 – Welcome and apologies

1. No apologies were received.

Item 2 – Minutes of previous meeting

2. The minutes of the meeting of 19 October 2009 were approved.

Item 3 – Matters arising

3. The meeting noted matters arising from previous minutes.
4. The Board noted that discussions with the Solicitors Regulation Authority in respect to the interaction between professional indemnity insurance and the Ombudsman scheme continued. The Board reiterated its concern that redress should be covered by professional indemnity insurance, as links to this and to any other compensation arrangements were required to ensure a joined up approach to consumer protection.
5. The Board considered the format used by the Legal Services Board (LSB) to publish LSB members' expenses. The Board agreed that, like the LSB, it should publish its expenses quarterly. It discussed the need to follow Cabinet Office good practice and asked the executive to check that the LSB format conformed to this standard. The Board also expressed a preference for reporting on expenses to include some context, especially stating what the purpose (or primary purpose) of an expense claim. The meeting asked the executive to work with the LSB to develop a clearer procedure for expenses and that would allow reporting to include a statement of the purpose of an expense claim.
6. The Board also agreed that it should state its intention to publish its expenses on a quarterly basis on the website now, with a note to explain that OLC Board expenses are met by the LSB.
7. The Board asked that Dianne Hayter, Chair of the Legal Services Consumer Panel, be invited to speak to a future meeting.
8. The Board noted that the Legal Services Board (LSB) had further developed its position in relation to requirements for in-house complaints, noting that there was a requirement to have an in-house complaints procedure within the Legal Services Act. The LSB had decided to add to this requirement by obliging lawyers to clearly signpost to the new Ombudsman scheme in their in-house procedures. The Board noted that the Legal Services Consumer Panel was also keen that the LSB promote these requirements. The next step for the LSB is to develop principles or outcomes that they will publish to support the general requirements, setting out good practice to help lawyers understand what is expected of this in this area, but without the need for

formal rules. The Board reiterated its desire that the OLC and LSB work closely together to ensure that the approach developed was consistent and supported the proposed approach of the new Ombudsman scheme.

9. The Board expressed its concerns that if what was expected of lawyers was in any way vague or inconsistent it would affect the customer service of lawyers and the ability of the Ombudsman scheme to judge what were the appropriate standards to expect from lawyers. It asked the executive to communicate clearly to the LSB the need to set clear standards in this area.

ACTIONS

- The executive to work with the LSB to develop a clearer procedure for expenses and that would allow reporting to include a statement of the purpose of an expense claim.
- A statement of intention to publish Board expenses on a quarterly basis to be included on the OLC website, with a note to explain that OLC Board expenses are met by the LSB.
- Board Secretary to invite Dianne Hayter, Chair of the Legal Services Consumer Panel, to speak to a future meeting.
- Executive to communicate clearly to the LSB the need to set clear standards in relation to in-house complaints handling.

Item 4 - Chair's update

10. A list of the meetings attended by the Chair and/ or Chief Ombudsman since the last meeting was circulated for information.
11. The Chair reported that the position of Deputy Chief Ombudsman had been offered to the preferred candidate, and that she was confident he would accept the post.
12. She also reported that the recruitment of the Ombudsman team was nearly complete, with eight candidates having been interviewed in addition to the two unsuccessful applicants for Deputy Chief Ombudsman having agreed to be considered for the Ombudsman role. The Chair reported that the panel would confirm the successful candidates following the Board meeting.
13. The Board noted that the majority of applicants for the role had some legal experience, but that the candidates who had been interviewed were from a range of backgrounds. While the Legal Services Act was specific that the Chair or Chief Ombudsman must be a lay person (as defined by the Act), it is not prescriptive about the background of an Ombudsman. Ensuring the published criteria for the post were met had of itself excluded anyone who had worked for an entity which was (or is likely to become), within the jurisdiction of the scheme in the recent past, which ensured that those in these roles would be suitably independent and impartial. The meeting also noted that there would be a staggered starting date for Ombudsman, with the team building over time.
14. The Chair also reported that she had given a talk to the Law Society Council during November which had seemed to be well received. The Law Society reported that it was its best attended speaking event for some time.

Item 5 - Chief Ombudsman's report

15. Following from the Chair's report on Ombudsman recruitment, the Chief Ombudsman outlined that the required approach to reporting on pay remit to Treasury remained a significant unknown for the organisation. The executive was working with Ministry of Justice and Treasury officials to clarify requirements. The Board noted that there was a risk of delay and possibly additional costs in relation to developing the staffing strategy as a result. The Chief Ombudsman was confident that these risks would be minimised, and it was agreed that the relevant good joint working with Government departments would resolve any outstanding issues.
16. The Chief Ombudsman asked Board members to acknowledge the work of Nyall Farrell who had secured the temporary home for the OLC and was finalising the process for the organisation's permanent home. The next key step was for the Minister to consider the proposed location for the OLC, and work was currently underway to make sure she had the required information to make this decision.
17. The Board also agreed that it would like to announce the name of the Ombudsman scheme along with the permanent home for the organisation before Christmas, but acknowledged this would be dependent on the Minister's decision.
18. The Chief Ombudsman noted that while the executive was delighted with its new accommodation, in practice the team were working across two sites, with a higher level of attendance in London still being required than expected while various key pieces of work were ongoing. This had resulted in the executive being conscious of the need not to fragment and also in an increase in expense for this short period of time.
19. The Chief Ombudsman also reported on his external affairs activities, stating that the OLC seems to be well-received by stakeholders. He acknowledged that until the Ombudsman scheme opened its doors, some would reserve judgment.
20. The Board noted that a discussion session in relation to setting the case fee had been held recently. This session had been positive, with a range of people attending and a range of views being heard. There was an appetite expressed for the OLC to set out its strategic approach to setting the case fee over a longer time frame. While many understood the constraints of setting a higher case fee at this early stage, there was a general desire for the OLC to set out its willingness to move to collecting a higher proportion of its income from case fees over time, after a period of review.
21. A further option for the structure of the case fee was proposed by stakeholders at the discussion session; a number of stakeholders suggested that a flat fee was appropriate but believed that there should be a differential fee for those cases that reached the stage of needing an Ombudsman decision.
22. The consultation will close on 4 December and the Board noted that it would be asked to determine its approach to case fees at its next meeting.
23. The Chief Ombudsman reported on meetings with the Crown Prosecution Service and Advice Services Alliance. Both these meetings confirmed that the jurisdiction of the Ombudsman scheme was complex and that further work was required to understand how different lawyers were included in the scheme.

ACTIONS

- Executive to prepare a paper outlining a suggested approach to setting a case fee for consideration at the next Board meeting.

Item 6 – Remuneration Strategy

24. The Chair of the Remuneration Committee outlined the work done to date by the Committee and executive, with Towers Perrins, the organisation contracted to provide independent advice in this area, to developing the remuneration strategy for the organisation.
25. After discussion of each of the key elements of the proposed package, the Board approved the recommendations of the Remuneration Committee as set out in the papers circulated to the Board in advance of the meeting. The Board agreed it was content with the overall direction of travel, and with the principle of offering employees flexibility and choice.
26. As part of this, the Board decided that the approach to pension contributions would be that the organisation would meet employee contributions on a 2:1 basis, to a 10% maximum employer contribution, agreeing that as a responsible employer it wanted to encourage OLC employees to contribute to a pension scheme. The meeting noted that the next step in relation to pensions would be to seek to contract a pension supplier and that this process would need to begin in the coming weeks to make sure these arrangements were in place before the organisation grew significantly.
27. It was noted that the executive should ensure that the Chair of the Remuneration Committee was alerted to any planned recruitment and the interim Chief Operating Officer was alerted to any intended procurement. This was crucial to ensure that the organisation met required standards of good practice in both these areas.
28. The Board acknowledged that this was a first look at remuneration and there would be subsequent packages of the strategy coming to future Board meetings in addition to more refined costs for each aspect being developed. The Committee would meet again in December and the next stage of work would focus on pay and progression as well as the detail of pension arrangements.

ACTIONS

- The Remuneration Committee to continue to develop the overall remuneration strategy for the organisation and to report back to the Board as required.
- The Chair of the Remuneration Committee to be alerted to any planned recruitment and the interim Chief Operating Officer to be alerted to any intended procurement.

Item 10 – IT and property procurement

29. This item was taken out of order as it provided background to Agenda Item 7.
30. The interim Chief Operating Officer reported that the number of responses to the IT tender process had been low. He briefly outlined the tenders that had been received. The Chair of the Board declared a distant connection to one of the bidders which was noted but as it was a remote connection and as the Chair was not directly involved in the tender process that it did not pose an issue.
31. Due to a lower than expected response to the tender process, the risk associated with IT had increased to amber. The main risk was delay. The procurement rules had meant the requirements had been packaged for tender, and it might now be that the packages would need reconsideration. The work would be done with appropriate advice from MOJ and OGC. The Board noted the different options to mitigate this risk

that had been developed by the executive and asked for regular status reports about this area.

ACTIONS

- Executive to provide an update on IT procurement at future Board meetings.

Item 7 – Go live date

32. The interim Programme Director picked up on the risks outlined in the previous agenda item and advised the Board that IT remained the key risk on the critical path to determining a go live date for the Ombudsman scheme.
33. She outlined the other factors that could influence a change to the proposed go live date for the OLC including pressures on the Parliamentary timetables. The Board noted that factors such as these had been included in OLC planning, and that it was the uncertainty around IT that remained the key risk to be managed.
34. The Board agreed to keep to its current, aggressive planned go live date. It also agreed to re-visit this decision in January following key milestones in relation to IT when it would re-assess whether the planned go-live date remained viable in light of further information. The meeting also noted that the go-live date would impact on the people work stream and that these factors must continue to be considered in any future discussion on the opening date for the Ombudsman scheme.

ACTIONS

- The Board to decide the go-live date at its January meeting.

Item 8 – Transition planning

35. The Board noted progress in relation to transition planning. The discussion focused on some details about timing of key elements of the plan and other work that would be required to support the proposed approach.

Item 9 – Legal Services Board: Memorandum of Understanding and measures

The Board discussed the proposed MoU, noting that this document would capture the spirit of the relationship between the OLC and LSB. Because of this, the Board were pleased to note that the two Chairs, Elizabeth France and David Edmonds would be involved in discussions, as it was keen that the agreement should reflect what the Board felt had been a positive, collaborative relationship between the two Chairs from the start. The Board noted that there was a danger that if due care was not taken, the relationship could develop a command and control approach that would not assist either organisation deliver its stated, or joint, objectives or realise what was envisaged by the Act.

36. The Board asked for a report on discussions at its next meeting.
37. In relation to developing performance measures, the Board asked for a clearer distinction between those areas the Ombudsman would collect and report information about the performance of the profession and those areas where the Ombudsman scheme would report on its own performance. While the former is very useful, the scheme should be judged in relation to its own performance.
38. Members agreed to provide any further comments on the proposed approach to setting measures to the Chief Ombudsman outside the meeting.

ACTIONS

- Chair and Chief Ombudsman to report on discussions with the LSB at its next meeting.
- Members to provide any comments on the proposed approach to setting measures to the Chief Ombudsman.

Item 11 – Finance report

39. The meeting considered the finance report, noting that OLC spend was as predicted for the organisation at this stage, with increased expenses now that the office was based in Birmingham.

40. The Board asked that staff salaries be included in a clearer format in future reports.

ACTIONS

- Interim Chief Operating Officer to include staff salaries in a clearer format in future reports.

Item 12 – Risk

41. The Board noted the project risk register.

Item 13 – Committee reports

42. The Audit and Risk Committee had not met since the previous Board meeting. The Chair of the Committee advised that he, along with the Chief Ombudsman, had met the Chair of the Ministry of Justice's Access to Justice Audit Committee to agree appropriate reporting processes between the two committees. The aim of the meeting was to make sure that the Access to Justice Audit Committee was satisfied of the process of managing risk in so far as this related to its role in overseeing the Access to Justice programme of work.

43. The Chair of the Remuneration Committee advised that the work of the Committee to date had been covered under Agenda Item 6.

Item 12 – Future agendas and any other business

44. Members noted that the next Board meeting would be held on 14 December 2009 starting at 11.30am in Birmingham.

45. A key item on the next agenda would be the budget and business plan, scheme rules, case fee structure and IT procurement.