

Minutes of the Fifty Fourth Meeting of the Office for Legal Complaints

Remuneration and Nomination Committee

7 September 2020

Present:

Dr Jane Martin, Chair
Rod Bulmer
Elisabeth Bellamy

In attendance:

Elisabeth Davies, OLC Chair
Rebecca Marsh, Chief Ombudsman (items 1-7)
Mariette Hughes, Interim Director of Operations
Melanie Whitfield, HR Strategic Support (items 5 – 11)

Apologies:

Marcus Passant, Head of HR

Board Secretary:

Kay Kershaw

Item 1 – Welcome, apologies and conflict of interest

1. The Chair welcomed those present to the meeting.
2. Apologies were noted.
3. A potential conflict of interest for members of the Executive Team with discussions pertaining to agenda item 8 on Senior Team rewards was reported. In discussion, RemCo **noted** that the specific proposal being put forward negated any actual conflict and therefore **agreed** that members of the Executive Team should remain present for discussions on this agenda item.
4. There were no other conflicts of interest reported.

Item 2 – Previous minutes

5. The minutes of the previous meetings held on 11 March 2020 and 16 April 2020 had been circulated to the Committee for review and comment prior to the meeting.
6. Having reviewed these minutes, the Committee **approved** them as an accurate record of each of the meetings.

Item 3 – Outstanding actions from previous meetings and matters arising

7. An update on previous actions was issued to RemCo out of committee in July. Having reviewed the update, the Committee had been satisfied that most of the actions had been completed. Of the remaining actions, further discussion had been required at the July Board meeting or were on the agenda for discussion at this meeting.

8. An update on these actions is shown below:

16 April 2020 – agenda item 2 paragraph 9: Further discussion on the prioritisation of actions that were critical to the delivery of the People Plan took place at the July Board meeting. The Committee **confirmed** that it was now satisfied that the action had been completed.

This action will now be closed off the RemCo action log.

16 April 2020 – agenda item 2 paragraph 10: Further discussion on clarifying the actions listed in the People Plan Delivery Plan took place at the July Board meeting. The Committee **confirmed** that it was now satisfied that the action had been completed.

This action will now be closed off the RemCo action log.

11 March 2020 – agenda item 6 paragraph 26: Suggestions for rewards to encourage staff retention, including recognition awards for high performers with long service (5 and 10 years) and awards for high performers completing their first 12 months of service is to be considered at the November RemCo meeting.

The RemCo forward plan is to be updated accordingly.

This action will now be closed off the RemCo action log.

ACTION: Board Secretary to ensure that rewards to encourage staff retention and to recognise high performers is added to the RemCo forward plan for discussion at the November meeting.

11 March 2020 - agenda item 7 paragraph 31: An update on the actions being taken in response to the Civil Service Survey results will be given as part of the People Plan agenda item at this meeting.

This action will now be closed off the RemCo action log.

11 March 2020 - agenda item 8 paragraph 37: An update on investigator attrition was circulated to RemCo with the papers for this meeting.

This action will now be closed off the RemCo action log.

Concern was raised about the lack of connectivity of data presented to RemCo. Improving the metrics to show monthly attrition by staff cohort linked to tenure would provide more clarity on the consequences of attrition on lost performance and productive capability and would allow the Committee to probe and challenge more effectively.

ACTION: The Executive to improve the data presented to RemCo and ensure that links are made between attrition, tenure, performance and productive capability.

11 March 2020 - agenda item 9 paragraph 40: In response to this action concerning the appraisal process not being applied consistently across all areas of the organisation and what was being done to address it, RemCo was advised that the first element of the two stage appraisal process, 1:1 discussions, was taking place in Operations. These discussions covered staff performance, quality and behaviours, but they did not address staff developmental needs.

The second element of the appraisal process, quarterly continuous conversations, was not taking place consistently. Currently there was a lack of clarity both by managers and staff around what outcomes were expected from these conversations as they were not linked to pay or career progression. This has been picked up as an area of concern by the Executive and will be addressed as part of the work being undertaken on the People Plan.

In discussion, RemCo felt that a decision would need to be made on whether the current appraisal process was adequate and if so what level of documented evidence would be required. Additionally, a consistent approach to appraisals for staff at all levels across the organisation would need to be adopted and the organisation would need to ensure that managers had the necessary skills to conduct them.

Following discussion, RemCo requested that the appraisal process is discussed further at next meeting.

ACTION: Board Secretary to ensure that the appraisal process is added to RemCo's forward plan for discussion at the next meeting.

11 March 2020 - agenda item 10 paragraph 42: Policies that fall within RemCo's remit is on the agenda for discussion at this meeting.

This action will now be closed off the RemCo action log.

11 March 2020 - agenda item 11 paragraph 44: A reward scheme for Head of Service and Head Ombudsmen is on the agenda for discussion at this meeting.

This action will now be closed off the RemCo action log.

18 December 2019 - agenda item 8 paragraph 47: The report and actions arising from the review of policy implementation was circulated to the Committee and is on the agenda for discussion as part of the People Plan agenda item at this meeting.

This action will now be closed off the RemCo action log.

9. RemCo **noted** the update on actions arising from previous meetings.

Item 4 – Performance Reporting

10. The Executive put forward a proposal to present a report on Performance at future RemCo meetings. The Performance report will:

- Provide a range of people metrics with a view to aiding and supporting discussions on people related risks and issues.
- Provide details of any mitigating actions being taken to address any people related risks and issues.
- Assist RemCo in considering whether the People Plan and Delivery Plan required any revision as a result of the risks, issues and mitigating actions.

11. A similar performance report is to be presented to the Board.

12. Recognising that the People Plan and Delivery plan were presented to both the Board and RemCo, the Chair sought clarity on RemCo's role in scrutinising the People Plan, Delivery Plan and the Performance report.
13. In discussion, it was **agreed** that RemCo's role would be:
- To satisfy itself on behalf of the Board that the Executive was delivering the People Plan as agreed and, where that wasn't the case, to agree any mitigating action or change,
 - To look more deeply at the outcome metrics reported in the performance report.
 - To report its findings to the Board.
14. Having clarified its role and responsibilities, RemCo **agreed** that Performance reporting should be added to the RemCo forward plan and the People Plan Delivery Plan would remain on the RemCo forward plan for discussion as a separate agenda item at future meetings.
- ACTION: Board Secretary to add Performance Reporting to the RemCo forward plan for all future meetings and ensure that the people Plan Delivery Plan remains on the RemCo forward plan.**
15. RemCo acknowledged that when reviewing the people metrics at future meetings, it would be important to also consider the overall organisational performance.
16. In order to ensure the integrity of performance data and to reduce any additional or duplication of work, it was **agreed** that the metrics reported in the RemCo and Board performance reports would need to be aligned to the commonly agreed data set and the revised KPIs.
- ACTION: Interim Director of Operations and Head of Governance and Strategy to ensure that the metrics reported in the RemCo and Board performance reports were aligned to the commonly agreed data set and KPIs.**

Item 5 – People Plan and Delivery Plan, including actions from the Independent Review

17. Papers relating to the Implementation of the People Plan and Delivery Plan along with the actions from the Independent Review that were presented at the July Board meeting were re-circulated to RemCo for further consideration at this meeting.
18. RemCo **noted** the updated Executive summary highlighting the progress that had been made since the July Board and the improvements that had been made to the Delivery Plan in line with previous requests from the Committee.
19. RemCo **noted** that the 7 recommendations from the Independent Review relating to Board actions would be considered at the September Board meeting as part of the agenda item on Board Effectiveness Review.

20. The CO reported on emerging plans to ensure organisational capacity and capability to deliver the People Plan and address the recommendations from the Independent Reviews.
21. Melanie Whitfield reported on the work she has undertaken to ensure that the recommendations from the Independent reviews were being sufficiently addressed in the People Plan.
22. Having considered the Independent Reviews, the recommendations and the proposed actions to address them, Melanie then met with key staff to gain a better understanding of the operational challenges, people issues and priorities. In doing so, it became apparent to her that the People Plan Delivery Plan was not clear and further work was required to provide more detail and clarity on the deliverables, the outcomes and the measurements of success.
23. To address this, an analysis of each of the recommendations from the Independent Review has been undertaken and a measurement of success was identified for each of them based on metrics taken from the Civil Service Staff Engagement Survey. Where required, further information on 'what' needed to be done and 'how' it would be done in order to achieve the desired outcomes has been identified.
24. This analysis was then matched with staff feedback and core themes from the Civil Service Survey and Pulse Survey and cross referenced against the People Plan Delivery Plan. In doing so, it became apparent that there were some gaps in the actions set out in the People Plan Delivery Plan, some repetition and some lack of clarity. As such, RemCo was advised not to progress with the People Plan Delivery Plan in its current format.
25. The Delivery Plan in its current format had presented the People Plan Project Group with challenges in regard to prioritising and phasing actions. Work has now begun with the People Plan Project Manager to re-scope the actions and prioritise those that need to be addressed urgently in the short term to improve operational performance and to phase those that are less urgent for a future date.
26. RemCo was advised that the 'Vital 10' priority actions that had been previously identified may need to be reconsidered.
27. Additionally, work has commenced to align the People Plan actions to the OLC's three-year strategy.
28. In a detailed discussion, recognising the challenges and the scale of the work required to address the people issues and improve organisational performance and culture, RemCo was assured that progress was being made in refining the People Plan Delivery Plan to ensure better alignment between the Independent Review and the Civil Service and Pulse surveys and that actions were now being phased and prioritised in order to achieve improved performance and culture at LeO.
29. Once completed, the revised People Plan Delivery Plan is to be presented to the Board.

30. RemCo was concerned to ensure that any decisions taken to address people issues by the Executive in the interim period before the new CO and COO joined the organisation were considered carefully to anticipate any issues which might be likely to be reversed at a future date.
31. Melanie reported on a Leadership and Talent Strategy that she was drafting.
32. A discussion took place about identifying a Board strategy and ethos for staff returning to work from the office post Covid. Recognising that such a strategy would assist the Executive in its decision making, RemCo also acknowledged that any decisions made would also need to consider organisational policies on flexible working and any directions from the MoJ in line with LeO's governance arrangements.
33. The Interim Director of Operations reported that she did not recommend that staff were directed to return to the office at this current time. Now schools were re-opening and caring responsibilities reducing the organisation was now focussing on maximising performance the Interim Director of Operations felt that it was important for staff to work from an environment that enabled them to be most productive.
34. RemCo was advised of the preparations that had taken place for the imminent re-opening of LeO's office for those staff that wished to return; other staff would continue to work from home in line with MoJ guidelines.
35. The Committee **noted** the update on the People Plan and Delivery Plan, including actions from the Independent Review.

Item 6 – Pay Benchmarking

36. The annual external pay benchmarking of operational roles was undertaken in June 2020, in line with LeO's Pay Policy and indicated that operational roles remained within 10% of tolerance. Tolerance was defined as median pay.
37. Considering the current budgetary constraints, the impact of Covid on working practices and other work being undertaken in line with the People Plan, the Executive did not propose any further extensive work on pay benchmarking at this current time.
38. Reflecting on staff engagement and learning from the Pulse Survey, the OLC Chair sought to understand staff expectations regarding communications about annual pay benchmarking.
39. The Executive advised that in the past, the outcome of pay benchmarking exercises had been discussed with Staff Council and the outcome of the 2017 pay benchmarking exercise that had taken place following the organisational restructure and business transformation had been widely communicated across the organisation. On this occasion, pay benchmarking was not felt to be a high-profile item for the organisation and therefore there were no proposals to communicate the outcome of this pay benchmarking exercise to staff as the purpose of this pay benchmarking exercise had been to provide confirmation to the Executive that pay rates were where they ought to be.
40. RemCo **noted** the update on annual pay benchmarking.

Item 7 – Pay Remit

41. Before the 2020/21 budget had been agreed, LeO had been required to submit its 2020/21 pay remit to the MoJ and had sought a 2% pay increase.
42. The Executive reported that, as a result of the standstill budget and its implications, consideration was now being given to the affordability of a 2% pay increase and the appropriateness of such a pay increase considering current performance.
43. Because of this, the Executive reported that it was not able to put forward a specific pay remit proposal to RemCo at this stage.
44. A full budget report and update, including information on the affordability of the pay remit is to be presented for discussion at the September Board meeting.
45. The CO **agreed** that, subject to the outcome and actions arising from the Board's discussions at its September meeting, a further update on the pay remit would be provided to RemCo either out of committee before or at its next meeting in November.

ACTION: The Executive to provide an update on the pay remit to RemCo either out of committee before its next meeting in November, or at the November meeting. Board Secretary to add to the RemCo forward plan.

46. Whilst recognising the constraints around LeO's budget, RemCo also acknowledged that staff were the organisation's biggest asset and, with attrition being a major concern for the Committee, the Executive was urged to act as fairly as possible when considering the level of pay remit it could offer to staff this year.
47. In discussion, RemCo **recommended** that information on the correlation between performance levels and pay increases offered to staff at other Ombudsman services should be collated and made available to RemCo.

ACTION: The Executive to collate information on the correlation between performance levels and pay increases offered to staff at other Ombudsman services and share this information with RemCo.

48. It was also **recommended** that the Executive should consider providing some context in terms of any correlation between performance levels and pay increases offered to staff at other Ombudsman services when communicating the final decision on pay remit to staff.

ACTION: The Executive to consider providing some context in terms of any correlation between performance levels and pay increases offered to staff at other Ombudsman services when communicating LeO's final decision on pay remit to staff.

49. The CO confirmed that open and honest communications would take place with staff and a clear rationale would be provided for the decisions that are made on pay remit.
50. RemCo **noted** the update on the pay remit.

Item 8 – Celebrating Success: Reward and Recognition – senior team rewards

51. Recognising that there was no reward scheme in place for the senior team, RemCo had agreed at its meeting on 11 March 2020, to give this matter further consideration at its September meeting.
52. In discussion, the Executive put forward a proposal to postpone discussions on senior rewards considering the organisation's current priorities, changes in senior structure, performance and budgetary constraints.
53. Having considered this proposal, RemCo **agreed** that further consideration on the senior team rewards would take place at the end of the financial year when it would be considered as part of wider discussions on the 2021 Celebrating Success: Reward and Recognition scheme.
- ACTION: Board Secretary to carry this action forward for further consideration as part of wider discussions on Celebrating Success: Reward and Recognition at the Q4 RemCo meeting.**
54. RemCo offered their thanks and appreciation to the Senior Team for taking this approach on senior rewards.

Item 9 – Policies that fall within RemCo's remit

55. At its meeting on 11 March 2020, RemCo requested information on when each of the policies that fell within its remit had last been reviewed and updated. This information was circulated to Members in July for consideration out of committee.
56. The Chair subsequently asked for a list of all LeO policies, highlighting those policies that RemCo was specifically accountable for approving and details of the approvers for all other policies, to be presented at the September meeting.
57. Having considered this information, the Chair confirmed that RemCo now had clarity on which policies it had oversight of and when they were last reviewed and was clear on who was accountable for all organisational policies.
58. It was suggested that further improvements could be made to this list of policies by setting out more detail about the governance around policy approval.
59. Following discussion, it was **agreed** that the list of policies should be reviewed again at the Q4 RemCo meeting.
- ACTION: Board Secretary to add the review of organisational policies to the RemCo forward plan for Q4.**
60. RemCo **noted** the update on policies.

Item 10 – Annual Health and Safety Compliance Report

61. RemCo considered LeO's annual Health and Safety Compliance report and noted that this report would also be presented to ARAC at its meeting in October.
62. The Interim Director of Operations reported that in Q1 there had been no sick days taken as a result of work related stress; this had been attributed to the increased flexibility and reduction in performance management offered to staff during the Covid pandemic along with the shift to home working.
63. It was anticipated that the number of sick days due to work related stress would increase in Q3 when the organisation begins to return to pre-Covid ways of working and performance management.
64. It was also anticipated that the fewer sick days would be taken in Q3 because staff would have greater flexibility to work from home, whereas they might take sick days if they had to commute to the office.
65. Steps had been taken to ensure the physical health of all staff working from home during the pandemic. Home visits had not taken place to assess homeworking environments, but all staff had been required to complete DSE assessments and any issues or concerns had been followed up accordingly. Specialist equipment had been provided to all staff as required.
66. LeO does not currently have a dedicated Health and Safety Officer but does have a Well-Being Network that includes Well-Being Champions and Mental Health First Aiders who offer support to staff. The Network has been very active during the pandemic and provided helpful insight to the Executive on how people were feeling.
67. All LeO's Staff Network groups attend monthly Management Team meetings to provide updates and report any issues, themes or trends that might be affecting staff.
68. RemCo **noted** the lack of dedicated and qualified internal expertise on Health and Safety and the implications of this on organisational risk. The Chair enquired whether there was a requirement for LeO to have a Health and Safety Officer and asked the Executive to consider appropriate resourcing for the Health and Safety function considering its importance.
ACTION: Interim Director of Operations to report back to RemCo on whether there is a requirement for LeO to have a dedicated Health and Safety Officer and to consider appropriate resourcing for the Health and Safety function.
69. The Committee requested sight of LeO's Health and Safety Policy.

ACTON: Board Secretary to circulate the Health and Safety Policy to RemCo.

70. Staff wishing to return to the office to work will be required to complete a Health and Safety questionnaire; this will identify anyone that might be at higher risk of Covid. HR will follow up with anyone at higher risk to check whether returning to the office would be the right decision for their personal circumstances.

71. Overall, RemCo felt that LeO had managed the homeworking aspect of Health and Safety well during the Covid pandemic but asked that the 2021/22 Annual Health and Safety Compliance report included a detailed update on this.

ACTION: The Executive to ensure that the 2021/22 Annual Health and Safety Compliance report included a detailed update on Health and Safety during the Covid pandemic.

72. Following review and discussion, RemCo **accepted** the Annual Health and Safety Compliance report subject to the clarifications listed above.

Item 11 – AOB

73. There was no other business reported.