

**Minutes of the Eighty-First Meeting of the**

**Office for Legal Complaints (OLC)**

**Wednesday 12 July 2017**

**10:30 – 15:30 am**

**Legal Ombudsman, Birmingham**

**Present:**

Wanda Goldwag, Chair  
Caroline Coates  
Rebecca Hilsenrath  
Michael Kaltz  
Tony King  
Jane McCall

**In attendance:**

Nick Hawkins, Chief Executive  
Kathryn Stone OBE, Chief Legal Ombudsman  
Rob Powell, Director of Corporate Services  
Simon Tunncliffe, Head of Operations  
Nikki Greenway, Head of IT (item 7 only)  
Steve Pearson, Senior Ombudsman (items 12 and 13 only)  
Dr Jane Martin, LCSP (item 13)  
Lola Bello, LSCP (item 13)

**Observing:**

Lindsay Donohoe, Team Leader  
Moona Nawaz, CMC Senior Investigator

**Board Secretary:**

Helen White

**Apologies:**

Bernard Herdan

**Preliminary issues:**

The Board meeting was quorate.

**Item 1 – Welcome and apologies**

1. The Chair welcomed Lindsay Donohoe and Moona Nawaz, staff observers, to the meeting and noted there were no declarations of interest. The Chair noted the apologies sent by Bernard Herdan who had fed back comments on the papers.

**Item 2 - Minutes of the previous meeting**

2. The minutes of the meeting held on 19 June 2017 were approved for publication.

**ACTION:**

- **The Board Secretary to publish the approved minutes of 19 June 2017.**

**Item 3 - Matters arising and outstanding action points**

3. Members noted the update on action points from previous meetings.

**Item 4 - Comments received regarding items presented for information**

4. The items presented for information were noted.

**Chief Executive's Report**

5. The Chief Executive updated members on two items which had arisen since the Board papers were circulated.
6. He stated that the publication of the Tailored Review report was imminent with the tentative date for publication being 19 July and that only minor amendments had been made to earlier drafts. He stated the report was a joint report covering both the OLC and LSB and that the team would be working with the LSB and MoJ teams to finalise the publication and press releases.
7. The CEO provided a high level overview of the recent Senior Civil Service conference he attended. He stated the key message had been the need to control costs and keep to budgets. It was agreed that the CEO would circulate a written update to Board members outside committee.

**ACTION:**

- **The CEO to circulate a written update on the Senior Civil Service conference attended.**
8. Discussion took place on the legal update. The CEO assured Board members that he scrutinises every litigation case with the in-house solicitor on a monthly basis. He stated that cases which could impact on the running of the scheme were brought to the attention of the CLO.

**Chief Legal Ombudsman's Report**

9. The CLO thanked Board members for approving the appointment of Level 1 ombudsmen out of committee.
10. Board members noted signs of positive external communications and that LeO's presence on social media was growing. The CLO reported that the Communications Officer had also been very helpful in developing internal communications.

11. CMA Report: The CLO reported that the response to the CMA report was being finalised and that the Board would be informed before it was submitted.

**ACTION:**

- **The CLO to inform Board members before submission of the CMA response.**

12. Discussion took place on the need for a discrete funding stream separate from the levy to cover costs should the CMA report lead to unregulated providers coming into the scope of the scheme. It was agreed the CEO would notify the MoJ partnership team that if a decision was made on unregulated providers coming into scope of the scheme, the MoJ would need to ensure separate funding was in place to cover all associated costs. At this stage it was difficult to estimate these costs with any certainty.

**ACTION:**

- **The CEO to notify the MoJ partnership team that if a decision was made on unregulated providers coming into scope of the scheme, the MoJ would need to ensure separate funding was in place to cover all associated costs.**

13. Inclusive Service: The CLO updated Board members on work being undertaken by the Equality and Diversity Forum to implement an inclusive service using the guiding principles set out in the British Standards Institution. It was agreed that the CLO would discuss plans to develop a customer panel offline with Bernard Herdan.

**ACTION:**

- **The CLO to discuss plans to develop a customer panel offline with Bernard Herdan.**

14. The CLO reported that mental health training was available to staff. It was agreed that the organisation needed to provide a service that was inclusive for all. Rebecca Hilsenrath commented that the report did not touch on ethnicity. It was agreed the CLO would ensure the Inclusive Service proposal included ethnicity.

**ACTION:**

- **The CLO to ensure the Inclusive Service proposal also included ethnicity.**

15. Personal Injury Thematic: The CLO updated members on the recent PI thematic. She reported that personal injury was the second most complained about matter in law with poor communication and failure to respond being the top areas of complaint. She reported ombudsman decisions about personal injury had found the lawyer's service to be reasonable in 53% of cases.

16. Discussion took place on how the information collected from the thematic would be used. The CLO reported that this type of information was key in feeding back to the profession and stakeholders. She stated that when meeting representatives

from across the industry she highlighted areas which needed focus, such as delay, poor communication and failure to follow instructions.

17. Caroline Coates thanked the CLO for the amount of activity undertaken with stakeholders and service providers and requested further information on the programme of guides and publications. The CLO responded that the focus was now to feed back to regulators, who in turn could feed back to the profession. The team would then focus on the development of guides and other innovative, low cost routes such as social media.
18. Caroline Coates suggested it would be helpful if messages were also communicated via specialist interest groups within the profession.
19. High Value Remedies: Michael Kaltz queried the number of decisions at each of the current thresholds. Following discussion, it was agreed that the CLO would approve remedies in excess of £25,000, the Level 2 Ombudsmen remedies in excess of £10,000 and the Level 1 Ombudsman remedies up to £10,000.
20. It was agreed that for information the current risk matrix would be circulated to Board members out of committee.

**ACTION:**

- **The Board Secretary to circulate the current risk matrix to Board members out of committee.**

21. Tony King stated that he did not think thresholds were the best way to determine who should look at a complaint. He thought that work on refining the thresholds should be undertaken with wider work on case complexity. It was agreed that the CLO would discuss this out of committee with Tony King.

**ACTION:**

- **The CLO to meet with Tony King to discuss work to define case complexity.**

**Director of Corporate Services Report**

22. Members noted the DCS Report.
23. The DCS reported that work had now been completed to transition the infrastructure from Daisy to Version 1. He stated that there had been some planned and unplanned system downtime, but this had been reasonably low given the complexity of the transition. There were still some minor issues to be resolved. It was noted that this work had de-risked a significant element of the Modernising LeO programme.
24. The Board requested the DCS formally thank the IT team for the massive amount of activity undertaken to accomplish the transition. It was agreed that Board colleagues would also personally thank the IT team.

25. The DCS provided an update on the telephony contract. He noted that the G-Cloud procurement was on track and that the contract was expected to be awarded by the end of July.
26. Discussion took place on the Annual Report and Accounts which it was noted would be formally published after Recess. The DCS reported that the audit completion report, discussed at the July ARAC meeting, had been positive.
27. The DCS reported that following the recent general election, the MoJ had requested an updated Mid-Term Financial Plan, which had been submitted.
28. Discussion took place on the reforecast taking place within the legal jurisdiction. The DCS noted there was now more certainty on the costs associated with changes introduced by the Modernising LeO programme.
29. It was agreed the DCS would circulate the Annual Health and Safety Compliance report, presented at the last ARAC meeting, to RemCo members.

**ACTION:**

- **The DCS to circulate the Annual Health and Safety Report to RemCo members.**

**Finance Report**

30. Members noted the Finance Report.
31. The DCS reported that the forecast for the legal jurisdiction was extremely tight for the remainder of the year. He stated that there would be an underspend within the CMC jurisdiction but that resources could not be moved between the jurisdictions.
32. The DCS updated members on the discussions with the MoJ and LSB regarding the inflationary uplift applied to the 2017-18 budget by the MoJ. It was noted that the MoJ were preparing a formal letter indicating their intention for the OLC to access the uplift. It may then be necessary to request formal approval from the LSB Board for the budget.
33. The CEO updated members on progress on the pay remit.
34. The ARAC Chair requested that the DCS review options to show more clearly in the financial commentary the impact of the new application of the accounting treatment of case fee income in the management accounts.

**ACTION:**

- **The DCS to address case fee variance in the Finance commentary report.**

**Board Member / Senior Manager Expenses**

35. Board members noted the report. It was approved for publication.

**ACTION:**

- **The Board Secretary to publish the Expenses.**

**Register of Interests**

36. Members noted the report, which would be published on the external website.

**ACTION:**

- **The Board Secretary to publish the Register of Interests**

**Register of Hospitality**

37. The OLC Chair reminded Board members that as LSB employees, they needed to follow the LSB rules, which differed slightly to the OLC rules.

38. Members noted the report, which would be published on the external website.

**ACTION:**

- **The Board Secretary to publish the Register of Hospitality**

**Item 5 – Quarterly Performance**

39. The CLO presented the quarterly performance report. She stated that the number of files which progressed to a case had significantly increased during the first quarter.

40. The CLO reported that following implementation of an action plan the unallocated cases within the Resolution Centre had significantly decreased and at the end of the quarter was 489, which was a significant achievement by the team.

41. Discussion took place on timeliness, which it was noted stood at an average of 48% for quarter 1. The CLO reported that this figure was consistent with previous months. She stated that timeliness forecasting was proving difficult due to the number of variables. It was noted that Bernard Herdan had raised concern that timeliness would be further impacted as more cases were being received than resolved.

42. Discussion took place on the oversight and support which had been put in place by the operational management team as a result of increased case holding. Rebecca Hilsenrath questioned whether there was a different way to look at case progression. It was noted that work was being undertaken to look at complexity levels and the potential for differential timeliness targets for different case types.

43. It was noted that work in the Assessment Centre had increased, which had been predicted as a result of changes made to the staffing model. The CLO reported that the increase in work had been further compounded by short-term IT issues

which meant manual workarounds had been implemented on a temporary basis following the infrastructure transition.

- 44.** The CLO stated that Board colleagues needed to be aware of the negative impact all the changes were having on staff morale. She stated that increased workloads were having an effect on staff welfare. She stated that there would be no significant improvement until the full implementation of the Modernising LeO programme.
- 45.** Discussion took place on forecasting and modelling. It was noted that Bernard Herdan had requested a 12 month rolling forecast for timeliness. The OLC Chair noted that the operational teams were conducting workflow planning. The bigger issue was around long term modelling to forecast areas such as number of cases, complexity of cases and number of staff in each function. She stated the Board were concerned about whether the skills existed to deliver improved modelling. It was agreed the executive would explore options to develop more mature modelling.
- 46.** Jane McCall expressed concern about the accuracy of data and therefore the impact this would have on data analysis, given the issues with the customer satisfaction data had not been picked up sufficiently quickly.
- 47.** The CEO stated that internal audit would be conducting more work on the accuracy of performance data. In addition a data working group had been established from across the business, the output of which would be a paper on data to be tabled at the September OLC Board.
- 48.** Jane McCall questioned what would be different with this group to enable potential issues to be picked up. The Director of Operations responded that a verification and sign off process for all data had been introduced, additional resource had been seconded to the data team and training was underway for the data team in how to interrogate CRM.
- 49.** The OLC Chair stated that there was a risk that the Board could become too involved in the day to day detail. She observed that there may be merit in establishing a single owner for data amongst the senior team.
- 50.** Discussion took place on the internal SmartSurvey customer satisfaction results. The ARAC Chair queried whether this survey could be issued automatically from within the case management system. The Director of Operations reported that quality / customer satisfaction had been de-scoped from the initial development of the case management system project.
- 51.** Discussion took place on the questions asked in the SmartSurveys and whether these should be reviewed.
- 52.** It was agreed the Director of Operations would update Board members out of committee to inform them when the customer satisfaction data would be available from ICM.



**ACTION:**

- **The Director of Operations to inform Board members when the customer satisfaction data would be available from ICM.**

53. Discussion took place on the proposed trigger points for specific areas of performance.

**Item 6 – Quarterly Reporting**

54. The DCS presented the update against business plan, strategic risk register and Balanced Scorecard (existing and the draft of the new Balanced Scorecard).

55. Jane McCall welcomed the commentary on the quarterly update, especially the external overview. It was agreed this summary provided a good overview of wider strategic context and that the new format represented an improvement in strategic reporting.

56. Discussion took place on the level of information provided. It was agreed that the Board would continue to receive a summary of the Strategic Risk Register and that ARAC would review the detail.

**Item 7 – Modernising LeO Update**

57. Nikki Greenway, Head of IT, joined the meeting.

58. The CEO stated that progress would continue to be reported to the Board against the Programme Plan. He reported that implementation of the new staffing model had progressed more rapidly than originally planned allowing the early promotion of staff.

59. He stated that work was now being undertaken to develop the new case management system, which would be robustly tested.

60. It was noted that the programme was on track, or ahead of track, on all key deliverables.

61. The CEO stated that the executive were confident the programme was in a good place. He noted the fact that performance had been sustained and backlogs reduced whilst undertaking an IT transition.

62. The OLC Chair questioned whether work on the IT infrastructure was now complete. The CEO responded that all work had been completed, except for the telephony and minor residual issues.

63. Tony King requested further information on the migration of the internal intranet. The CEO stated that the new system had the same base software in the Cloud. He noted that more work to develop the functionality was planned for September,



following the successful 'lift and shift' from Nyall in time for the transition from the Daisy infrastructure to Version 1.

64. The DCS reported that work would be undertaken to review the storage of documents and version control. It was noted that the Data Retention Policy had been reviewed by ARAC and that all old policies would be archived.
65. The OLC Chair queried whether staff morale had been impacted due to the movement of staff. The CLO stated that operational colleagues should be commended for ensuring the transition went so well within a two week period. She stated that staff who were unsuccessful for promotion had been given commitments around mentoring, coaching, support and interview practice.
66. The Director of Operations noted that work was still needed to move the staffing model to the new business process. A new workstream would be created to encompass people and culture which would look at the offer to staff.
67. Caroline Coates requested the executive produce an update in diagram form to represent progress against plan for each of the key deliverables.

**ACTION:**

- **The DCS to ensure future updates include an update in diagram form to represent progress against plan for each of the key deliverables.**

68. The CEO updated members on the need for external assurance of the go live acceptance criteria. He confirmed that an independent gateway review would take place, based on an internal self-assessment, to provide assurance that testing had been robust and the business was ready to move to a live environment.
69. The Director of Operations reported that during July and August work would be undertaken on user acceptance testing. Subsequent testing would address load testing and homeworking in a disaster recovery scenario. The production environment would be ready by the end of October to enable final testing and snagging before putting cases onto the new system from December.
70. Board colleagues requested a demonstration of the new system. It was agreed that the Head of IT would present this at the October OLC Board.

**ACTION:**

- **The Head of IT to present a demonstration of the new case management system at the October OLC Board.**

71. Portals: Discussion took place on the strategic drivers for a portal. Caroline Coates noted that data collection was not listed as an outcome. It was agreed that accessibility, speed, efficiency and data were the key drivers for development of a portal.

72. The DCS updated members on the options to develop a portal which were either a capital development or a 'pay as you go' strategic partnership

73. Rebecca Hilsenrath stated that work on the portal development needed to ensure it was future proof in terms of shifting digital behaviours. It needed to provide a flexible solution and should draw on lessons from elsewhere in the legal sector, other sectors and the insights of the research of the LSCP.
74. Jane McCall requested that Board focus remained on the portal development work to ensure oversight continued on the process changes and how these impacted culture and staff. The Board set out its expectation that the scope of any portal would be broad, albeit accepting that the development may need to take place in phases.

### **Item 8 – Welsh Language Scheme Update**

75. The CLO presented an update on the Welsh Language Scheme Annual Report. She noted that the Welsh Language Commissioner had advised that a full annual report was not necessary due to the low number of requests being made to communicate in Welsh and visits to the Welsh sections of LeO's website.
76. It was noted that the Welsh Language Commissioner would be updated on new initiatives to increase the offering in Welsh such as translating the complaint form into Welsh. Plans were also in place for to review the Welsh language sections on the website to ensure key pages were available in Welsh.
77. Board members noted and approved the information on the Welsh Language Scheme annual report.

### **Item 9 – Management Team Terms of Reference**

78. The DCS presented the updated Terms of Reference for the Management Team, which took into account discussion at the June OLC Board.
79. Board members approved the revisions.

### **Item 10 – ARAC Update**

80. The ARAC Chair updated members on the ARAC meeting held on 4 July. He reported that the External Audit Completion Report had been discussed and the Head of Finance and her team congratulated for the professional work undertaken to ensure the accounts were of a high quality.
81. He reported that additional post-balance sheet work would be required by the NAO as the accounts were not being laid as planned in July.
82. He reported that ARAC had discussed the reformatted Strategic Risk Register, which provided a one page outline of each strategic risk which supported the one page summary presented to Board.

- 83. It was noted that the DCS would shortly be having his quarterly meeting with the NAO at which he would discuss the process for rotating external audit team.
- 84. Discussion took place on the IT outages which had occurred during the transition and whether there was a likelihood of further issues. The DCS reported that the risk of outages was considerably lower now the organisation had transitioned to a modern infrastructure.

### **Item 11 – Estates Strategy**

- 85. The DCS reported that an occupancy study had been undertaken in January which highlighted that there was around 20-30% more space than required and poor utilisation of some of the space.
- 86. He reported that the strategy proposed three strategic estates objectives for the organisation; making better use of the space, reducing floor space/costs and adopting smarter working principles.
- 87. The OLC Chair expressed her support for working from home, but said that this should be managed to ensure a spread of working from home across the week so that roughly similar numbers of staff worked from home every day and that there was always a senior executive in the office. Policies to support more flexible use of desks should apply equally across the organisation.
- 88. Rebecca Hilsenrath stated that there may be positive lessons from a successful exercise in her organisation and suggested the DCS may want to visit the EHRC's Manchester office.
- 89. It was agreed that as the project moved forward, RemCo would provide oversight on the cultural elements.
- 90. Board members noted the executive would commence engagement with Staff Council. They also noted that work would continue with the MoJ to develop firm plans for utilisation of the office space. The DCS would ensure regular Board updates would be provided as decisions were made.

### **Item 12 – Third Party Complaints: Scheme Rule 6.2**

- 91. Steve Pearson, Senior Ombudsman, joined the meeting to provide an update on the proposed amendment to Scheme Rule 6.2 in order to clarify that, where LeO accepts a complaint from a person who is not the client of an Authorised Person, the case fee will only be waived where LeO is satisfied that an Authorised Person has taken all reasonable steps to resolve the complaint under their own complaints procedure.
- 92. He stated that the clarification was needed because the requirements the LSB makes of regulators (under Section 112 of the LSA), only require Authorised Persons to address complaints from clients. In contrast, LeO, in applying the case fee provisions, expects service providers to address complaints from any

individual whose complaint is within LeO's jurisdiction, regardless of whether or not they are a client.

93. He noted that currently there was no expectation for a firm to provide a first tier complaints service to somebody who was not a client.
94. Rebecca Hilsenrath questioned how often third party complaints were brought to LeO where there was no complaints handling process.
95. It was agreed that the CLO would consider the points raised during the discussion. She confirmed that the wider scheme rules were due to be discussed at the September Board, so this item would be included in that Board paper.
96. It was agreed that the CLO would speak to Caroline Coates outside committee to discuss her concerns about third party complaints.

**ACTION:**

- **The CLO to speak to Caroline Coates outside committee to discuss her concerns about third party complaints.**

**Item 13 – LSCP Update**

97. The OLC Chair welcomed Dr Jane Martin and Lola Bello to the meeting.
98. Dr Jane Martin presented an overview of the Tracker Survey, which she noted YouGov ran for the seventh successive year. She stated that the survey would soon be published on the LSCP website.
99. She reported that the survey had shown an 80% satisfaction with legal services and 83% satisfaction with the outcome of the matter. Board members were interested to learn that public trust in lawyers was at 45%, a decline from 47% in 2011 but an increase from the previous year.
100. Discussion took place as to why the low public trust in lawyers did not generate a large amount of complaints.
101. Board members were pleased to note that the Legal Ombudsman had a 68% awareness figure.
102. Jane McCall stated that there could be a role for the LSCP in mapping future consumer behaviour and what this might look like in the future.
103. The CLO noted that email and online delivery had increased by 7% since 2012. She wondered whether this was an indicator of future behaviour.
104. Dr Martin suggested that it may be opportune for the OLC and LSCP to refresh their Memorandum of Understanding. This would provide an opportunity for both organisations to consider the thought process of how to best share information. It was agreed this would be considered at the quarterly meetings.

**105.** The OLC Chair thanked Dr Martin and Lola for their informative and helpful presentation.

**Next meeting**

**106.** The next OLC meeting would be held on 8 September 2017 in Birmingham.