

Minutes of the Seventy-Fifth Meeting of the

Office for Legal Complaints (OLC)

Tuesday 18 October 2016

09:30 – 15:30 am

Legal Ombudsman, Birmingham

Present:

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

In attendance:

Nick Hawkins, Chief Executive
Kathryn Stone OBE, Chief Legal Ombudsman
Emma Cartwright, Head of Finance (items 1-8 only)
Simon Tunncliffe, Head of Operations
Gurmit Sangha, Compliance Officer (item 11 only)
Rhiannon Walpole, External Affairs Manager (item 12 only)
Rob Powell, Director of Corporate Services (Designate)

Observing:

Kimberley Wallaard, Staff Observer
Amir Pathan, Staff Observer

Apologies:

Prof Philip Plowden, member

Board Secretary:

Helen White

Preliminary issues:

The Board meeting was quorate.

Item 1 – Welcome and apologies

1. The Chair welcomed Kimberley Wallaard and Amir Pathan as Staff Observers and Rob Powell, the Director of Corporate Services (designate).
2. The Chair noted the apologies received from Prof Plowden and noted there were no declarations of interest.

Item 2 - Minutes of the previous meeting

3. The minutes of the meeting held on 7 September 2016 were approved as a true and accurate record of the meeting. The Board also reapproved the minutes of the meeting held on 19 July 2016, which included an additional paragraph to fully capture the discussion during the LSB presentation.

Item 3 - Matters arising and outstanding action points

4. Members noted those items where actions had been completed and those that were included as agenda items.
5. The Chair reported that the Chairs of the OLC, ARAC and RemCo would be meeting in November to assure themselves on the outstanding issues from the governance review action plan and the plans to bring remaining items into 'business as usual'.
6. A Board Member advised the Board that they could see no evidence of recently published data for 'touch point' surveys from any Ombudsman scheme.
7. The Head of Finance confirmed that internal work was still being done on the approval process for the translation services contract. An update would be provided at the December OLC Board.

ACTION:

- **The Head of Finance to provide an update on the translation services contract at the December OLC Board.**
8. The Head of Operations reported that work was continuing to provide assurance on the integrity of the data being reported. He noted an internal audit had been conducted which would be discussed later in the meeting as part of the ARAC Update.
 9. The Chief Legal Ombudsman updated members on the internal work being undertaken to develop the concept of case progression. It was noted that the issues with the current IT platform coupled with the LSB focus on KPI reporting meant this project would be reprioritised and reviewed at the March OLC Board.

ACTION:

- **The Chief Legal Ombudsman to provide an update on the concept of case progression at the March OLC Board.**
10. The OLC Chair reported that he was awaiting the timetable for the appointment of his successor from the LSB. He had hoped to coordinate this timetable with the scheduling of stakeholder event but this was proving

difficult. He would therefore move forward with scheduling both a Board strategy session and stakeholder event.

ACTION:

- **The Board Secretary to schedule a Board Strategy Session and Stakeholder Event.**

Item 4 - Comments received regarding items presented for information

11. The items presented for information were noted.

Chief Executive's Report

12. The Chief Executive reported how professionally staff took the announcement about the decision taken by Ministers to pass responsibility for CMC complaints to the Financial Ombudsman. Kimberley Wallaard stated that whilst staff were disappointed with the news, they remained philosophical that a lot could change in the coming months. She stated that staff were reassured by the Chief Executive and Chief Legal Ombudsman. It was noted that the announcement had not adversely affected performance.

13. Discussion took place on the Tailored Review programme. It was noted that the next stage would be for the Tailored Review team to go to external stakeholders for the call for evidence.

14. The OLC Chair reported that initial feedback from the Tailored Review team was highly complementary about their meetings with the OLC Board and staff.

15. The Chief Executive reported that a second in-house lawyer had now joined the team and was already making a positive impact. The OLC Chair stated that Prof Plowden had commented in advance of the meeting on how pleased he was with the clarity of the Legal update. Caroline Coates agreed that the report was extremely helpful.

16. Caroline Coates queried the process surrounding one of the cases outlined in the Legal report. It was agreed the Chief Executive would provide an update to Caroline Coates out of committee.

ACTION:

- **The Chief Executive to provide an update to Caroline Coates out of committee on the process surrounding one of the cases outlined in the Legal report.**

Chief Legal Ombudsman's Report

17. The Chief Legal Ombudsman updated members on the significant impact the IT outages were having on performance.

18. Bernard Herdan noted that the report did not contain any quantified analysis on the recent IT outages to include days / hours lost, cost involved and impact on performance. The Chief Legal Ombudsman stated that this could be picked up during the performance discussion later in the meeting.
19. The Chief Legal Ombudsman reported that the KPI's being monitored by the LSB did not recognise the recent improvements being made. She noted that at the recent casework oversight meeting, discussion had taken place on the work being undertaken by the ombudsmen to reduce the work in progress by over 50%.
20. The OLC Chair reported that he and the Chief Legal Ombudsman were attending the November LSB Board to present the draft budget for 17/18.
21. The Chief Legal Ombudsman updated members on the recent Ombudsman Association Executive Committee which she had attended in Dublin. She reported that her aim was that the OA would be seen as an important organisation to promote the professional qualifications for ombudsmen. The Chair noted that this view reflected the Act which requires the OLC to have *'regard to any principles appearing to it to represent the best practice of those who administer ombudsman schemes'*.
22. The Chief Legal Ombudsman updated members on the situation regarding the firm recently subject to a Category One publication. She noted that the Category One publication had achieved the objective of harm reduction as the firm were no longer in operation.
23. Discussion took place on the operational actions being taken to address vexatious and persistent complainants.
24. Members thanked the Head of Operations for the hard work he had done over the last few months.
25. Discussion took place on the relationship management programme being established to work with firms who have a high number of complaints with the Legal Ombudsman. To provide further clarity on how the programme would be handled, the OLC Chair requested an update at the next meeting.

ACTION:

- **The Chief Legal Ombudsman to provide an update on the relationship management programme at the December OLC Board.**
26. Discussion took place on the Independent Service Complaint Adjudicator's report and the number of service complaints considered. The Chief Legal Ombudsman reported that the Legal Ombudsman made payments for distress and impact which was a similar practice to other ombudsman schemes. The Head of Finance was asked to confirm the mechanism for these payments.

ACTION:

- **The Head of Finance to confirm the mechanism for payments made for distress and impact.**

27. The Head of Operations updated members on exploratory work being undertaken to potentially assist vulnerable consumers raise their first tier complaint within the legal jurisdiction.

28. The Chief Legal Ombudsman reported that it was her view that where there were complainants who have explicit protected characteristics, the Legal Ombudsman had a duty to support them. She stated that this also included those complainants whose circumstances made them vulnerable. She reiterated that to ensure impartiality, there would be a clear line between those staff supporting the completion of the complaint forms and those investigating the complaint.

29. The OLC Chair requested that, as this was such an important area, that a more detailed update be provided once the exploratory work had concluded.

ACTION:

- **The Chief Legal Ombudsman to provide a detailed update on the proposal to assist vulnerable consumers raise their first tier complaints within the legal jurisdiction.**

Finance Report

30. Members noted the Finance Report.

31. Discussion took place on the potential year end position and whether there would be a potential underspend in the budget.

32. The Head of Finance reported a remit had been issued by Treasury to reforecast budgets within 1% of actual figures. She stated that work was continuing within the team to complete the reforecast.

33. The RemCo Chair noted that the organisation was under on operational staff numbers. The Head of Operations assured members that there was a consistent approach to recruitment but that there was difficulty in getting successful candidates through the process. He stated that work would commence this year with universities to look at graduate recruitment.

34. The OLC Chair requested that RemCo maintain their oversight of the recruitment process to meet the operational needs of the organisation.

ACTION:

- **RemCo members to maintain their oversight of the recruitment of operational roles within the organisation.**

35. The ARAC Chair thanked the Head of Finance for her work. He requested that she add an additional column to her Finance Report to show the prior year full nominal figures.

ACTION:

- **The Head of Finance to include an additional column in her finance report to show the prior full year nominal figure.**

36. The Head of Finance updated members on the procurement role within the organisation. It was noted that once the new DCS joined, a review could be undertaken on how to meet the procurement actions identified within the governance review action plan.

37. Jane McCall noted that there were a number of key projects due within the next twelve months that would need procurement and contract management expertise to ensure the OLC were robust and insightful customers.

Register of Interests

38. Members approved the Register of Interests for publication on the LeO website as part of the LeO publication scheme.

ACTION:

- **The Board Secretary to publish the Register of Interests on the LeO website.**

Gifts and Hospitality

39. Members approved the Gifts and Hospitality report for publication on the LeO website as part of the LeO publication scheme.

ACTION:

- **The Board Secretary to publish the Gifts and Hospitality report on the LeO website.**

Board Member Expenses

40. Members approved the Board Member expenses report for publication on the LeO website as part of the LeO publication scheme.

ACTION:

- **The Board Secretary to publish the Board Member Expenses report on the LeO website.**

Item 5 – ARAC Update

41. Michael Kaltz, ARAC Chair, provided an update on the ARAC meeting held on 6 October 2016 and the pre-meet which had been held with the internal auditors.

42. He reported that discussion had been held during the pre-meet on two internal audit reports; the Data Handling report which formed part of the ARAC board pack and the Performance Data report, which had not yet been formally presented at the ARAC meeting.
43. The ARAC Chair reported that ARAC members were disappointed that the Data Handling audit report did not offer anything practical to help the organisation better handle data security.
44. The ARAC Chair stated that the Performance Data audit was considered so important by ARAC members that two of the three members attended the meeting to set the terms of reference and scoping for the audit. He stated that the quality of the done by Internal Audit and the resulting draft audit report were extremely disappointing and that a further meeting was to be scheduled with internal audit to discuss it further.
45. The OLC Chair requested that the ARAC Chair keep the Board updated on how the relationship develops with the internal audit function.
46. The ARAC Chair reported that the Chief Executive had done sterling work in his interactions with the National Audit Office to finalise the Report and Accounts.

Item 6 – Annual Report and Accounts

47. The Chief Executive reported that it was unfortunate that the NAO were not represented at the recent ARAC meeting, where the Report and Accounts were discussed. He noted that the current document had been through various iterations including review by ARAC and external audit. He drew members' attention to the new section included on Page 13.
48. The Chief Executive reported that the external auditors had stated that the NAO would likely qualify the accounts due to the continued payment of FBS and TRS throughout the accounting year.
49. The Chief Executive reported that the aim for the 2016/17 Report and Accounts would be to get them laid before summer recess. He stated that the NAO had committed to this timetable and their audit had already been scheduled for next year.
50. It was noted that ARAC were therefore recommending the Accounts for signature.
51. The OLC Chair thanked the Chief Executive for his work in reaching this point. He noted that the Accounts had been dealt with at ARAC and that the Chief Legal Ombudsman had completed her report. He stated the final part

for members to consider was the Chair's Foreword and the explanation of what the Board do to comply with the regulatory objectives.

52. The OLC Chair noted that the Board approved the Annual Report and Accounts.

Item 7 – Corporate Risk Register

53. The Head of Finance reported that a lot of work had been done since late spring in consultation with ARAC members, to ensure the corporate risk register represented a strategic view of the organisation. It was noted that underneath the Corporate Risk Register would be the departmental risk registers containing more detail.

54. The OLC Chair invited members to comment on the content of the document. Jane McCall stated that she found the content too internally focussed and suggested it needed a better balance of external factors. She also thought it lacked clarity around accountability. These points were noted by the Head of Finance who undertook to review the document with the Executive.

55. The OLC Chair noted that the next step would be to refine the organisation's Risk Strategy. This would be discussed further at the January ARAC and OLC Board meetings.

56. The ARAC Chair thanked the Head of Finance and her colleagues, for the work undertaken to refine the Risk Register.

Item 8 – Modernising the Legal Ombudsman

57. The Chief Executive reported that since the presentation at the June Board meeting, the Executive had been drafting proposals to modernise the Legal Ombudsman by taking advantage of both business process improvements and technology.

58. He outlined the government guidelines regarding capital spend, which that should capital spend be required, a business case would need to be approved by the OLC Board, then be submitted to the MoJ for approval.

59. Discussion took place on the procurement action being undertaken for the infrastructure support contract. It was noted that this contract did not require any capital spend approval from the MoJ. The Chief Executive reported that the Executive proposed to bring forward the reprocurement exercise from June 2017 and run a competitive tender process.

60. Discussion took place on the proposed business case to rebuild the CRM platform. He stated that the Executive had taken a number of steps to assure

themselves that CRM was the best option available. This included visits to two references sites and discussions with the MoJ technical team.

61. The Chief Executive reported that having seen CRM working successfully in two organisations, the Executive were confident that this was the right product for the organisation.
62. Jane McCall reported that she had been involved in the work being undertaken by the Executive and stated that she supported the paper and proposal to retender the infrastructure contract. She reiterated that by supporting the 'buy not build' principle, the organisation would have to conduct a detailed assessment of its processes which would require a significant cultural change.
63. Jane McCall reported that whilst she supported the proposal to firstly sort the internal kit and CRM build, the longer term objective would be to look for transformation through self-service in order to provide the right support for consumers and service providers. She stated that she saw the transformation programme as staged incremental work.
64. Discussion took place on whether there was sufficient internal resource to deliver the programme, whilst maintaining performance levels. Members raised concern about how performance would be affected in the short term.
65. Discussion took place on whether self-service was a pre-requisite for ADR. Caroline Coates confirmed that under the EU ADR directive, consumers would need to be able to make an online application but this would not necessarily need to be via a live portal.
66. Discussion took place on the potential for any further third party validation to assure the Board that the proposed route provided the best value. It was acknowledged that under the government's spending restrictions, any third party validation would require a business case being approved by the MoJ.
67. Discussion took place on the procurement resource. Members noted that adequate arrangements were in place and requested visibility of how this would be augmented.

ACTION:

- **The DCS to provide assurance that adequate procurement resource was in place.**

68. The Head of Operations reported that work was being undertaken with ARAC oversight to refine and standardise system workarounds to manage security breaches around data issues.
69. The Chair noted that the Board approved the bringing forward of the tendering for the new infrastructure services contract. He also noted that the

Board approved the two business cases for submission to the MoJ to secure capital funding for replacement IT equipment and a rebuild of CRM.

ACTION:

- **The DCS to proceed with the tendering of the infrastructure services contract.**
- **The DCS to submit the two business cases to the MoJ, as required, to secure capital funding for replacement IT equipment and a rebuild of CRM.**

70. Board members requested updates as the contract process progressed to ensure value for money was obtained. They also requested regular updates on the programme of incremental improvements.

ACTION:

- **The DCS to provide regular updates on the contract to tender the infrastructure services contract.**
- **The DCS to provide regular updates on the programme of incremental improvements.**

Item 9 – Quarterly Performance Update

71. The Head of Operations reported that this was the second quarter where Board members had received the Performance Update in its current format and that updates had been made to the report following members' feedback.

72. It was noted that the level of cases accepted during July, August and September was higher than might have been anticipated and discussion took place on the range of initiatives being taken to address the impact of this on timeliness. The Head of Operations reported that the Operations Management Team had developed in-house performance management information which was reviewed on a weekly basis.

73. The Head of Operations reported that customer feedback had highlighted a duplication of work between the Assessment and Resolution Centres. He stated that his team were therefore reviewing the shape of the future resource model.

74. The Head of Operations reported that he welcomed the progress being made to progress recruitment and to ensure that future recruitment is able to take place on a 'rolling' basis.

75. Bernard Herdan raised concern that the definition and design of requirements for the CRM system rebuild would require operational resource which would in turn adversely affect performance. This point was acknowledged by the Chief Executive who gave assurance that every effort would be made to minimise the impact of this but pointed out the long term benefits of supporting the CRM work.

76. Jane McCall stated that the Board needed a level of reassurance on the proposed milestones, timescales and outputs to reach an improved level of performance. It was requested that the Head of Operations provide an update on the initiatives to improve performance, the impact being made and next steps at the next meeting.

ACTION:

- **The Head of Operations to provide an update on the initiatives to improve performance, the impact being made and next steps at the next meeting.**

77. The return of ombudsmen back into the operational teams was welcomed by the Board. The Head of Operations reported that the ombudsmen would still be involved in delivering the induction training but this was being properly managed.

78. The Head of Operations reported that timeliness within the CMC jurisdiction had been impacted by a combination of both staff shortages and multiple cases relating to one CMC firm. It was noted that the team were building up their knowledge base on how to handle firms which generated multiple complaints.

79. Discussion took place on the customer satisfaction scores with service at the end of the process. It was noted for the first quarter, these figures had dropped from 66% to 60%. Internal customer satisfaction surveys continued to be undertaken with initial contact results across both jurisdictions remaining positive.

80. It was noted that the main driver for dissatisfaction within the Legal jurisdiction was lack of updates. It was noted that the Executive would include specific questions on this to 'nudge' staff behaviour and provide a richer picture.

81. It was noted that whilst the Interim KPIs for satisfaction were set for the remainder of the current year, these would be open for further discussion at the end of the year.

82. The Chair noted that the internal surveys were progressing well and whilst they were resource intensive to run, they provided the team leaders with a rich source of information to drive customer service improvements.

83. Members noted that Tony King, as part of his oversight role on casework, continued to work with the Operational Insight and Engagement team to assure himself of the processes and robustness undertaken on quality reviews.

Item 10 – Quarterly Business Plan Update

84. Board members noted the report. Jane McCall congratulated the Executive on the momentum being shown to deliver the business plan objectives.

85. The OLC Chair requested that for clarity the learning events entry needed to differentiate between formal training and CPD training. He also requested a different colour coding for completed items.

ACTION:

- **The Head of Operations to differentiate between formal training and CPD training in the learning events entry.**
- **The Head of Operations to include a different colour coding for completed items.**

86. Discussion took place on the potential to conduct surveys after learning events to see whether the perceived benefits were realised by participants. The Chief Legal Ombudsman undertook to review this with her team.

Item 11 – Compliance Update

87. Gurmit Sangha joined the meeting to provide a six monthly update on the key areas of Compliance. He updated members on work done on service complaints to embed learning from individual cases in order to improve the service offered. He stated that the number of service complaints received remained consistent with the majority being around timeliness and communication.

88. It was noted that a number of initiatives had been put in place to address the issues raised by service complaints. Team leaders were now monitoring case progression on a weekly basis. Quarterly reports on service complaints, and all reports from the Independent Service Complaints Adjudicator, were published on the intranet.

89. It was noted that the Independent Service Complaints Adjudicator would be presenting to staff on her experience of service complaints; the good and the bad that she had seen, and how such complaints can be avoided.

90. The Chair queried whether further analysis could be done to review service complaints where timeliness was given as the source of the complaint to see how long it took to resolve these cases and what point in the process, complainants felt it necessary to complain.

91. Discussion took place on the internal audit undertaken on Data Protection and the work being undertaken to implement the recommendations. The ARAC Chair reported that the subject of Data Protection and Data Breaches were discussed regularly at ARAC and that the Executive had been asked to include a risk scale on future data incident reports.

92. The Compliance Manager reported that work was being undertaken to review policies around information security to simplify them and ensure they were a suite of policies that were user friendly and easily understood.
93. Discussion took place on the General Data Protection Regulation which was due to come into force in May 2018. It was noted that the GDPR 'privacy by design' principle would be brought back to the Board in a future update.

ACTION:

- **The Compliance Manager to attend a future Board meeting to provide an update on the GDPR 'privacy by design' principle.**

Item 12 – Scheme Rules Update

94. Rhiannon Walpole joined the meeting to update members on the Scheme Rules review. It was noted that the proposed timetable would enable the Board to review the CMA recommendations which were due to be published by mid-January.
95. It was noted that the proposal was for a call for evidence be undertaken, which contained the case fee changes, with a full consultation taking place early in 2017.
96. Discussion took place on the circumstances under which a case fee would be waived; Tony King believed this was a mandatory requirement to include this Rule. It was agreed that the External Affairs Manager would check the proposed changes against primary legislation.
97. It was agreed the Board were content with the timetable and proposals, subject to minor amendments. The External Affairs Manager would update the 'Call for Evidence' paper and recirculate to the Board.

ACTION:

- **The External Affairs Manager to update the 'Call for Evidence' paper and recirculate to the Board.**

Item 13 – Any Other Business

98. No other business was raised. The Chair declared the meeting closed.

Next meeting

99. The next OLC meeting would be held on 7 December in Birmingham.