

Meeting	OLC Board	Agenda Item No. Paper No.	3 130.1
Date of meeting	14 December 2023	Time required	20 minutes

Title	Executive Report
Sponsor	Paul McFadden, Chief Ombudsman
Status	OFFICIAL

Executive summary
<p>LeO made a strong start to quarter 3 in terms of performance, with a higher number of complaint resolutions (within or exceeding range in consecutive months), an improving customer journey time, and a continued reduction in the queue of people waiting for investigation. This reflects an anticipated turning point in performance, with mitigations being put in place earlier in the year successfully addressing operational challenges and absorbing an increase in demand.</p> <p>Demand for LeO’s service continues to see sustained increases: 13% year-on-year in contacts; and 3% in new complaints received which has slowed slightly following a sharp 10% drop in November 2023 when compared to 2022. This may be as a result of scheme rule time limit changes, although we continue to assess this and the reasons for demand more generally. The challenging initial impact of Scheme Rule changes has now steadied with the remaining work on discretion checks to be completed by the beginning of quarter 4.</p> <p>Attrition has seen a welcome reduction in recent months. Investigator attrition has slowed with no leavers in October or November and is now forecast in line with likely scenario. Attrition remains a central challenge, however, with analysis indicating that the profile of leavers has also shifted from non-established staff to established.</p> <p>Key areas of people focus include improvements to the employee benefits package, review of Staff Council & networks terms of reference and responsibilities and a review of recruitment policies and process. Approval of 2023-24 pay remit has been received and the increases paid to staff.</p> <p>External and internal engagement continues to indicate increased confidence and positive engagement with the OLC’s strategy and plans for 2024/25 as we look to develop LeO’s impact and insight capacity and increase our engagement on key elements of learning and insight.</p> <p>Finance, risk, audit and governance all remain stable with a manageable forecast underspend of £26k; a number of strategic risks reducing in scoring; and a third GIAA internal audit of the year delivering a substantial rating.</p> <p>Wider updates are provided in relation to the full range of LeO’s performance and activity and the Chief Ombudsman is happy to update further on these areas.</p>
Recommendation/action required
OLC is asked to NOTE the paper.
Equality Diversity and Inclusion

EDI implications	Yes
<p>The Chief Ombudsman's report provides a summary of activity and performance across LeO, including in relation to LeO's customers and people. It therefore covers a wide range of areas with the potential to impact from an EDI perspective. These are considered routinely across business areas as appropriate. An update is also provided on LeO's general progress against EDI strategy and plans and LeO's Gender Pay Gap Report.</p>	
Freedom of Information Act 2000 (Fol)	
Paragraph reference	Fol exemption and summary
Page 7	<p>Reference to assessment of future accommodation options and negotiations related to Edward House.</p> <p>Section 43(2) exemption information on the basis that disclosure would, or would be likely to, prejudice commercial interests.</p>

Executive Report

LeO's Performance

LeO made a strong start to quarter 3, with a higher number of complaint resolutions, an improving customer journey time, and a continued reduction in the queue of people waiting for investigation.

Resolved complaints

Resolved complaints were above the mid-point of forecast range in October (674 against a range of 649 – 691) and exceeded forecast in November (702 against a forecast range of 628-676). This reflects an anticipated turning point in performance, with mitigations being put in place earlier in the year successfully addressing operational challenges, including scheme rules implementation, attrition, and increased demand. In November the difference between forecast year-to-date resolutions and actual resolutions fell to just 129, and we expect to resolve the number of cases we said we would by March 2024.

Customer journey time and pre-assessment pool (PAP)

More resolutions and a better flow of cases through LeO's process have led to improved overall customer journey times. For complaints resolved through early resolution, the average time to closure fell from 68 days in April 2023 to 37 days in November 2023. For customers who need a full investigation, journey times have reduced in the same period from 318 to 298, though this is still high as a result of historic cases being resolved and increasing the average time.

The queue of people waiting for an investigation (Pre-Assessment Pool) reduced further to 3,430 cases. This is outside LeO's forecast range; increased demand and attrition in the first half of the year, which have led to more cases needing to be reallocated to other staff, mean we haven't been able to reduce the queue as quickly as originally anticipated. However, we are on track for larger reductions in quarter 4, and for the queue to reach a recalculated expectation of 3,000 cases by March 2024.

Demand for LeO's service

Demand for LeO's service continues to see sustained increases, with a 13% year-on-year increase in contacts. The increase in new complaints received has slowed slightly: a 3% year-on-year increase following a sharp 10% drop in November 2023 when compared to November 2022. 2023/24 assumptions had predicted a 10% drop in core demand at this stage as a result of time limit changes. Although it is too early to say with certainty, the reduction in demand could indicate that the new Scheme Rules are starting to have the intended effect, with LeO increasingly taking on only complaints centered on more recent events, where parties are likely to be less entrenched and better able to access key information, and which we will be able to resolve both more efficiently and at a point it will make a real difference. We continue to deal with the 6%

demand we saw in the first half of the year as these enquiries and cases moves through our process. At the moment we are absorbing these increases through continued efficiency improvements and continue to analyse demand to gain a better understanding of the reasons.

Implementation of new Scheme Rules

The challenging initial impact of Scheme Rule changes has now steadied. LeO's checks on whether discretion should be applied to accept new cases will be completed by the beginning of quarter 4. At that point, investigator resource allocated to the front end of LeO's process will return to investigations. Successful recruitment for call handlers and General Enquiries Team advisors have strengthened our resourcing, with a positive impact seen at the front end of LeO's process: particularly in terms of increased flow-through of cases into early resolution and investigation processes.

We are continuing to assess the impact of scheme rules in terms of levels of demand but also in terms of the impact on customers' access. We will be reporting in more detail on this at the end of quarter 3.

We are now slowly starting to see cases coming through our process where some of the other changes to the scheme rules can apply. As with time limits, we are going through a rigorous process to ensure that the new rules are applied fairly and consistently and we will start to build a data set over the coming months to assess the impacts of these additional changes on customers by reference to EDI and protected characteristics.

Lean process review

In line with LeO's 2024-27 strategic aim to maintain our focus on providing an efficient and excellent level of service, we have started early scoping of a lean process review, which will assess LeO's end-to-end process to identify opportunities to implement a more efficient, customer-centric service. This review will be informed by LeO's staff who will have key input into how LeO's processes are shaped. We will keep Board updated on progress as it evolves.

LeO's customer experience - Quality, Service and Legal

Quality and customer satisfaction

The quarter 2 end-of-process Customer Satisfaction survey results show that levels of customer satisfaction remain broadly consistent with those seen in previous quarters, satisfaction with outcome remaining the principal determining factor for satisfaction. We continue to see strong levels of customer satisfaction for those who have been through the early resolution process.

We are currently mid-cycle for quarterly quality reviews with an update due for the January meeting OLC Board.

The review of LeO's quality framework is progressing with significant input from operations and the quality function to assess the existing framework and to establish where it can be improved or refined. Initial proposals will be considered internally by LeO colleagues over the coming months.

Service complaints and legal challenge

Levels of service complaints, pre-action correspondence and formal challenges to LeO's decisions also remain broadly within expected levels and previous reporting periods subject to the usual month on month variance. We continue to provide detailed feedback on upheld complaints to individuals and the operations team as a whole. A separate update is provided for OLC Board providing assurance on levels of legal activity.

LeO's People

People performance

Attrition has seen a welcome reduction in recent months. Overall attrition fell by 1.2% in October and stood at 21.7%, having seen increases over the previous five months. The current overall attrition target within our risk appetite measures is 19%, placing us within the 'amber' category for tolerance.

Investigator attrition, which was running beyond our worst-case scenario, has slowed and is now being forecast in line with the likely scenario. There were no investigator leavers in October or November. As a result, for the first time in seven months investigator attrition has fallen by 1.5% on the previous month although remains very high at 31.7%. Corporate attrition fell for the third consecutive month and now stands at 23.7%, a 2.4% reduction on September's figure.

Attrition remains a central challenge, particularly as analysis is starting to indicate that the profile of leavers has shifted from non-established staff to established. Reducing attrition figures continues to be a key focus and a strategic 'deep dive' into attrition by the Executive Team scheduled for January 2024.

Delivery of the People Strategy

Key areas of focus for the remainder of 2023/24 include development of a new employee value proposition (EVP), supported by the findings of the pay and benefits benchmarking exercise and improvements to the employee benefits package. The HR team has been proactive in securing and rolling out additional benefits on an improved benefits package. This will form one strand in the development of a new EVP for LeO. The benchmarking review of pay and benefits will form part of the update from Remco Chair at the December meeting

Related to EVP, MOJ approval of the 2023/24 pay remit was received at the end of October. This included the proposed award of 5% for investigators and those at a similar grade; and a 5.5% increase for LeO's lowest paid staff, maximising the offer that LeO could make within pay remit guidance. Implementation of the pay award and associated arrears was prioritised and processed in November.

A new 3-year People Strategy is currently being developed by the Head of People Strategy and Services; it will be aligned to LeO's new 2024-27 Strategy Plan and underpinned by a set of annual deliverables, which will be subject to regular review of progress by RemCo and the Executive Team. Consultation will begin on the new People

Strategy early in the new year, after which it will be presented to RemCo for approval at its March 2024 meeting.

A revised Recruitment, Selection and Promotion Policy was approved at the November RemCo meeting. This has been subject to a significant review to provide greater structure and rigour and ensure compliance with HR and equality good practice and current employment legislation. This will be underpinned by a comprehensive end-to-end review of recruitment processes, which is currently underway.

LeO's focus on Equality, Diversity, and Inclusion (EDI)

We continue to make positive progress on EDI and delivering on LeO's EDI strategic objectives. 82% of activities in our year 1 action plan have been completed and all are on course to be completed by the end of the financial year.

Our 2023 Gender Pay Gap report was approved by Remco in November. We have seen a nominal 1% increase in our mean gender pay gap this year (from 10% to 11%) which continues to remain below the public sector average of 13.9%. We have identified three significant drivers that impact LeO's gender pay gap: the uneven distribution of males in our upper quartile pay band, the fact that females are significantly overrepresented in the lower quartile pay band, and the high proportion of females in the LeO workforce (68%).

From a people development perspective, we have come to the end of our mentoring pilot. We have also launched our new reverse mentoring pilot. We will have five colleagues working with Board and Executive Team members and they will begin their first mentoring sessions in January.

Our EDI Team continues to contribute to a range of external engagement events, including a multi-sector national Race at Work summit, sharing insights amongst diversity and inclusion leaders on best practice in promoting race equality at work. We also participated in an EDI Forum meeting with the Collaboration Network focused on championing best practice on vulnerable customers. In the Ombudsman sector, we met with the Financial Ombudsman Service and the Parliamentary and Health Service Ombudsman to compare customer EDI capture rates and approaches and share key learnings.

Employee engagement – review of Staff Council & networks

In consultation with our Staff Council, ED&I Manager and Network Chairs we have developed new, detailed terms of reference (ToRs) and roles and responsibilities for the Staff Council and networks. These aim to raise the profile and a higher level of visible engagement with staff and to ensure the Staff Council and the Networks work together to maximise engagement. The new framework sets clear expectations and better-defined roles going forward, and introduces the provision of allocated 'facilities time' to support representatives and Chairs in carrying out their duties.

The new ToRs and roles and responsibilities documents are currently with the Staff Council and networks for further comment/feedback. The next steps will include an election process for Staff Council representatives, supported by communication to relaunch Staff Council and further promote the work of the Networks.

Accommodation and Future Ways of Working



The Executive have been considering options for LeO's future hybrid working model and increasing flexibility for staff, recognising that flexibility and home-working are highly valued by staff and a key part of LeO's current EVP. Recent Government communication, indicating a move from the existing guidance and encouragement for all public servants to increase office working, has caused concern amongst LeO's staff. Discussions with MOJ are planned and engagement with other ALBs indicate that this is being viewed as advisory.

Finance

Assurance on LeO's financial position at the end of Quarter 3 will be provided to ARAC in January 2024.

For Board's assurance on the financial position at the end of October 2023, the current full year forecast to the end of 2023/24 is for a £24k underspend (0.14% of budget and well within the 1% MoJ tolerance level). This takes account of a range of mitigations put in place over the year and includes the backdated pay remit award, which was paid in November. Other mitigating actions included relate to publication design work, lean review consultancy, HR professional advice on recruitment policy and process, legal advice and recruitment fees for early 2024 investigator recruitment.

Less than forecast attrition has reduced the end year forecast underspend. If we continue to see less leavers there are a number of levers available to manage any emerging underspend or overspend, including adjusting the budgeted overtime offering, postponing publication design work and adjusting the remaining balance of various budget lines.

Our forecast position is manageable and the Executive continue to monitor and consider appropriate mitigating actions to ensure we are within tolerance and as close to budget as possible at the end of the financial year.

Risk Management, Audit and Governance

Strategic risk and risk management

The Executive continue to review and monitor the 2023/24 strategic risks and issues on a monthly basis and a full risk assurance report will be provided for the October ARAC meeting. Scores have reduced since October for both the financial and leadership resilience strategic risks, reflecting the manageable end year forecast position and planned mitigations and significant resilience brought through recent Executive Team and management team appointments. A new strategic risk has been added to the strategic risk register relating to future accommodation options. The strategic issues and risks related to backlog and attrition continue to remain high for reasons that are well understood, including challenges related to increases in demand, attrition and scheme rules implementation. We will continue to monitor these factors, including recent reduced attrition rate, to assess any changes in outlook.

Ongoing improvement to risk management continues with a risk control review being undertaken to assess improvements to reporting of Business Unit Risks. The review will assess all risk controls, understand if the correct treatment is in place for risks, and highlight the key controls within each risk to help introduce control indicators, including greater early warning mechanisms.

Quarter three and four the annual review will see the annual review of assurance mapping, with the Risk Management function challenging the Executive on the three line defence model and overall RAG rating.

Internal Audit

Progress continues with the 2023/24 GIAA audit plan which has now delivered all three audit reports with 'substantial' audit ratings (Management Reporting, Cyber Security and Grievances and Staff Complaints). Both the cyber security and staff grievances and complaints audits reported no recommendations. The Stakeholder Engagement audit has commenced and is scheduled to conclude by end of January 202 with the Quality audit also scheduled for quarter 4.

Review of governance documents

The Executive have undertaken a full review and update of governance documents for OLC Board approval. This has included engagement with the Chairs of OLC Committees to ensure there is a consistent approach in format, structure and language being applied to Committee Terms of Reference. The full review will be considered as an agenda item at the December OLC Board meeting.

Stakeholder engagement and impact

2024-27 Strategy and 2024/25 Budget & Business Plan

Engagement on the OLC 2024-27 Strategy and development of the 2024/25 Budget and Business Plan has continued since the October OLC Board meeting.

Following on from the Strategy Top Table event and wider external and internal engagement, consultation events in November sought views from both LeO's people and a wider range of external stakeholders. Overall, both sessions indicated positive engagement with the OLC's strategy and plans for 2024/25.

LeO's people were encouraged to submit questions in advance, and on the day raised a range of further queries and comments. These covered LeO's progress in reducing waiting times, the challenge of premature complaints and 'silent sufferers', our future use of technology, future ways of working and flexibility and LeO's wider employee value proposition. While responses were given on the day, we are working to ensure that these areas are addressed fully in future engagement.

Externally, delegates were drawn from the Association of Consumer Support Organisations, the Bar Council, Bar Standards Board, the Chartered Institute of Legal Executives, Council of Licensed Conveyancers, Law Society, the Legal Services Consumer Panel (LSCP) and the Solicitors Regulation Authority. A majority confirmed that their increased confidence in LeO had been maintained, with the couple of exceptions expressing more caution and a desire for greater realism and focus on reducing LeO's customer queue. There was strong overall support for LeO's proposed focus on learning and insight, and appetite for greater engagement around the drivers of complaints. There was also broad consensus that improving the sector was necessarily a shared endeavour, and that – reflecting feedback from our top-table event – there would be many opportunities for strategic alignment and collaboration: for example, around data and intelligence.

Following a meeting with the LSCP in September, the Executive attended the panel's meeting in December which provided further opportunity to discuss detailed aspects of the strategy and business plan, particularly around LeO's ambitions on learning and insight and greater transparency of decisions. The panel restated their recognition of the substantial improvements that have been made and there was significant positive support for the renewed focus on LeO's impact and realisation of the potential of LeO's role and influence in the sector. The panel were pleased about the status of impact as one of two objectives as opposed to a third priority. Discussion focused around measuring the success of this work, and around how our casework highlights gaps in redress that need addressing (such as for third parties who are impacted by poor service but are not themselves able to bring complaints to LeO). On the publication of full Ombudsman decisions, a long-held aim of the LSCP, the panel recognised the implications/potential constraints but urged progress on this as quickly as possible.

Consultation is open until Friday, 22 December. Board will receive a high-level update shortly after the consultation has closed with the final Strategy, Budget and Business Plan and associated papers provided to the OLC Board in January.

LeO updated guidance on costs

In response to a growing spotlight in the sector on the cost information lawyers give to their clients, November saw the re-launch of updated LeO guidance [An Ombudsman's View of Good Costs Service \(https://www.legalombudsman.org.uk/information-centre/learning-resources/preventing-complaints/an-ombudsman-s-view-of-good-costs-service/\)](https://www.legalombudsman.org.uk/information-centre/learning-resources/preventing-complaints/an-ombudsman-s-view-of-good-costs-service/). Positive feedback has further highlighted the strong appetite for insights from LeO, and the credibility and status such guidance has within the legal sector.

This represented the third edition of the guidance, updated to reflect recent developments: notably a number of high-profile court cases which have given rise to

questions around the implications for LeO's approach. The guidance emphasises that LeO's position hasn't changed – a client should never be surprised by the bill they receive from their lawyer – but includes additional information to help lawyers and clients understand what we consider to be reasonable service.

The successful launch and sector feedback reflected proactive trailing of the draft guidance with legal commentators and relevant media, who subsequently helped publicise its launch and were publicly complementary around the clarity of LeO's position. We will be developing training for the sector based on the new guidance, to be delivered in quarter 4.

Building our capacity to deliver more insight and impact

Given the emerging stakeholder consensus around an expanded learning and insight role for LeO, we have started preparing and planning for delivering on our strategic ambitions. This includes scoping of team structure, anticipated roles and capabilities and mapping these against anticipated 2024/25 deliverables and Government Communications Service model functions. We are also engaging with other organisations to understand and learn from how they deliver their own learning, insight and impact programmes.