

**Minutes of the Sixty-Seventh Meeting of the**

**Office for Legal Complaints (OLC)**

**Tuesday 20 October 2015**

**11:30 – 16:30 pm**

**Legal Ombudsman, Birmingham**

**Present:**

Steve Green, Chair  
Catherine Lee, OLC Accounting Officer  
Caroline Coates, member  
Bernard Herdan, member  
Michael Kaltz, member  
Tony King, member  
Jane McCall, member  
Professor Philip Plowden, member

**In attendance:**

Nick Hawkins, Chief Executive  
Ian Brack, Chairman's Assistant  
Paul Partridge, Interim Director of Corporate Services  
Freda Sharkey, General Counsel (*item 9*)  
Baljit Kaur, Equality and Diversity Manager (*item 10*)

**Apologies:**

Kathryn King, Interim Chief Ombudsman

**Observing (for all items except Item 4):**

Laura Barker, Staff Observer  
Paul Lawton, Staff Observer

**Board Secretary:**

Helen White

**Preliminary issues:**

The Board meeting was quorate.

**Item 1 - Welcome and apologies**

1. The Chair welcomed the Accounting Officer, Catherine Lee, to the meeting and also welcomed the Chief Executive, Nick Hawkins, to his first OLC Board meeting.

2. The Chair welcomed the two staff observers; Laura Barker and Paul Lawton. The apologies sent by the interim Chief Ombudsman, Kathryn King, were noted.
3. The Chair noted the standing declaration of interest from Prof Plowden regarding his university's research engagement with Lockheed Martin, who were working with the OLC on the new case management system.
4. Staff attendees made a general declaration of interest for discussions related to Item 4.

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

5. The minutes of the meeting held on 15 September 2015 were approved.

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

6. Members noted those items where actions had been completed and those that were included as agenda items.
7. It was noted that the proposals for the IT post-implementation review would be tabled to the December OLC Board.

#### **ACTION:**

- **The Board Secretary to note that the proposals for the IT post-implementation review would be tabled at the December OLC Board.**

8. The Chief Executive reported that he was reviewing the structure as part of the Refocus exercise. It was noted that preliminary discussions had been held with the MoJ regarding potential business cases for the roles proposed as part of the Refocus exercise. An update would be provided to the December OLC Board.

#### **ACTION:**

- **The Chief Executive to provide an update to the December OLC Board on the refocus exercise and subsequent need for business cases.**

9. It was noted that the Board Strategy Day would be held on 26 January.

10. Board Members approved the revised Terms of Reference for both the Audit and Risk Assurance and Remuneration and Nomination Committees. These would be now be published.

#### **ACTION:**

- **The Board Secretary to publish the revised Terms of Reference for both ARAC and RemCo.**

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

11. The items presented for information were noted. No comments had been received in advance of the meeting for circulation

#### **Interim Chief Executive's Report**

12. The report was presented by Ian Brack in his capacity as outgoing Interim Chief Executive. Discussion took place on the Review of Financial Controls and Systems. It was noted that Grant Thornton had completed their field work and were finalising clarification questions.
13. It was noted that Grant Thornton's interim report would be finalised by the end of October. A meeting was scheduled between the OLC subcommittee and Grant Thornton on 10 November to formally sign off the report. The Chair stated that the final report and draft action plan would be discussed in detail at the December OLC Board.
14. Catherine Lee reported that it may be necessary to include reference to the Grant Thornton report and subsequent action plan in the Annual Report and Accounts.
15. The OLC Accounting Officer provided a verbal update on her current thinking in relation to regularisation of staff benefits.
16. Discussion took place on the internal policy review and the revised approval process. It was noted that RemCo had raised concerns regarding the intended approach for the approval of policies by board committees, which they concluded led to excessive involvement in the detailed content of documents. Proposals for a more policy-focused approach had been requested and these were included in the report.
17. It was agreed that revised policies would be passed to the relevant committee as they were ready for approval. The default process for policy approval by committee would be that a cover paper would be provided for each policy, or batch of policies, prepared by the relevant senior manager, which would highlight the relevant policy details, providing extracts from the policies and explanation as necessary. The committees would, consider the cover paper and in doing so the substantive policy changes or details. They would not consider the detailed content of the policy document itself unless they considered it necessary to do so. It was agreed that the exception to this would be key governance policies. For these policies, the committees would be presented with the full detail on the policy. It was noted that oversight of the policy review process would now be undertaken by the permanent Chief Executive, Nick Hawkins.

#### **ACTION:**

- **The Chief Executive to take oversight of the policy review process. The process would be finalised and communicated to the executive.**

18. The Chair requested an update on progress at future OLC Board meetings.

#### **Interim Chief Ombudsman's Report**

19. Discussion took place on the ADR consultation which was due to close on 2 November. The Chair reported that a detailed discussion on both ADR and Scheme Rules would be held at the December OLC Board.

20. Discussion took place on the Understanding Customer Needs (ESRO) project. Board Members requested information on the proposed dates for the interactive workshops.

#### **ACTION:**

- **The interim Chief Ombudsman to circulate the dates of the ESRO workshop to Board Members.**

#### **Interim Director of Corporate Services Report**

21. Discussion took place on the continuing IT problems. The interim Director of Corporate Services reported that work was being undertaken to review the original functional specification.

22. [Redacted]  
[FOIA exempt s43(2)]

23. [Redacted]  
[FOIA exempt s43(2)]

#### **ACTION:**

[Redacted]  
[FOIA exempt s43(2)]

24. It was agreed that the Head of IT, Nikki Greenway, would be invited to attend the December OLC Board to present her initial findings.

#### **ACTION:**

- **The Board Secretary to note the Head of IT to present to the December OLC Board.**

#### **Finance Report**

25. Members discussed the Finance Report. Discussion took place on the research budget. It was noted that the CMC budget was still with the MoJ for consideration.

#### **Item 5 – ARAC Update**

26. The ARAC Chair updated members on the ARAC meeting which had been held that morning. It was noted that discussions on the ongoing IT issues had taken up a large proportion of the meeting.

27. The ARAC Chair reported that an update had been provided at the meeting on the exchange of letters between himself and the OLC Accounting Officer. It was noted that it had been agreed to move entirely to a bank transfer system of payment and destroy the pre-signed cheques in the safe.

28. The ARAC Chair reported that it had been agreed with the MoJ that the OLC would provide early notification of capital needs and requirements to enter into contracts which were above the current financial transaction limits.

29. It was noted that ARAC had reviewed the format of the corporate risk register with a view to moving to the a similar model to that used by the MoJ. The updated format would be tabled to the OLC Board in December, together with an outline of the risk framework, to which the Chief Executive would have input.

#### **ACTION:**

- **The Board Secretary to note that the Risk Register would be discussed at the December OLC Board.**

30. The ARAC Chair reported that the external auditor was still reviewing the governance statement and that it was unlikely to have the final set of draft accounts for the 9 December OLC Board. The OLC Chair observed that if this were the case, it would be necessary to form a sub-committee of the OLC Chair and ARAC and RemCo Chairs to approve the draft accounts out of committee.

#### **Item 6 – Quarterly Performance**

31. Discussion took place on the quarterly performance report. Members queried the forecasting to the year end. It was noted that discussion later in the meeting regarding the Complaints Volume Research would assist in the understanding of the complaint levels.

32. It was noted that the customer portal rollout had been delayed due to deployment issues at Lockheed Martin. It was noted that this portal could have an impact on unit cost and the way the service was delivered. The Chief

Executive reported that the Head of IT would provide a comprehensive update at the December OLC Board.

**ACTION:**

- **The Head of IT to provide a comprehensive update at the December OLC Board. This would include an update on the portal delays.**

33. Discussion took place on the thematic review looking at informal resolutions where it was noted that in a large number of cases, no informal resolution had been attempted. The OLC Chair reported it was important to work through the issues and requested a report to the next meeting about the background and trends.

**ACTION:**

- **The interim Chief Ombudsman to provide a report to the next meeting on the thematic review background and trends identified.**

34. Members noted the impact the continued IT issues were having both on staff morale and also their ability to hit their individual performance targets.

35. It was noted that the ombudsman work in progress had risen in September. This was impacted by the high levels of holiday amongst the ombudsman team. Members noted that the planned increase in ombudsman resource combined with better management of ombudsman leave would help address the backlog.

36. Discussion took place on the number of technical errors found in cases sampled. It was noted that the new quality framework would address some of the issues identified as it reviewed two areas; whether the decision was right and whether internal processes were followed.

37. Discussion took place on the number of service complaints received. The OLC Chair requested assurance that timeliness performance was not causing consumer detriment.

**ACTION:**

- **The interim Chief Ombudsman to provide assurance to Board members that timeliness performance was not causing consumer detriment.**

**Item 7 – Revised KPI Proposals**

38. Members noted that paper outlining the revised suite of KPIs, performance measures and targets to apply from April 2016, which would form the basis for the LSB submission.

39. Discussion took place on the time-related measures and targets. There was a view that the organisation might be better served by moving away from the

90 day measure as a KPI and applying a more stringent 180 days target. If there was going to be such a move, then the beginning of 2016/17 was a sensible time to undertake it. Board members recognised that the 90 day period was used across a number of Ombudsman bodies but questioned whether it was valued by stakeholders. It was pointed out that it reflected existing research on expectations of the duration of a normal case.

40. The proposed 90 day performance target was also challenged by Board members. There was discussion as to whether this was a target which the organisation should move away from over the coming year. Board members were conscious that the 90 days EU ADR target and the 90 day timeliness target could become confused in the eyes of the public and the sector. It was agreed that as a final decision had not been taken on whether to apply to become an ADR entity, it was not the right time to consider this issue. It was agreed that the target and the measure would remain but would be kept under review.
41. The use of a 56 day measure was also questioned, with the suggestion that a 70 day measure might be more useful as it would better reflect the timetable for informal resolutions. It was recognised that the case for such a change was not yet made – the 56 day measure would continue (as it provides a very helpful indicator of likely performance on the 90 day target) but this, as with all measures, would be kept under review.
42. Turning to the 180 day measure, the Board challenged the proposed 90% target and asked for further consideration of maintenance of the 95% target. Ian Brack suggested to the Board that the timeliness targets proposed were, in the current context, challenging ones. Setting aspirational targets when the organisation was already under detailed scrutiny in relation to its performance (and its inability to meet the existing “stretch” targets) was courageous and showed commitment, but on balance he advised that the impacts of failure would outweigh the benefits of success. He recommended the proposed case resolution targets (60% for 90 days and 90% for 180 days) but believed that they should be aggressively managed and should be reviewed next year in the light of organisational performance in year.
43. Board members were concerned that they needed a clearer understanding of the unresolved caseload at 180 days. There was poor granularity in relation to the cases which remained under consideration during the 180-365 day period. The Board should therefore receive a regular report on the unresolved cases which were older than 180 days.
44. Board members also discussed the Quality targets. There was concern that targets could not be set without benchmark data. They recognised the difficulty of attempting to apply targets based on an estimation of an appropriate level and so it was concluded that, for the period (expected to be six months) whilst the data were assembled to enable targets to be set, the existing LSB-set quality target should be utilised as a target.

45. It was agreed that the revised KPI submission document would be circulated for Board comment before submission to the LSB by the deadline of 1 November.

**ACTION:**

- **The OLC Chair to circulate the revised KPI submission document for comment by the OLC Board before submission to the LSB by the deadline of 1 November.**

**Item 8 – Business Transformation Principles**

46. Members noted the paper outlining the principles for change and transformation as part of the change and transformation activities.

47. It was agreed that the principles outlined in the paper would feed into the Board strategy day planned for 26 January.

**Item 9 – General Counsel Quarterly Update**

48. The General Counsel presented her quarterly update report. It was noted that refresher training had been undertaken by the ombudsman team to address the issues raised in the last quarter.

**Item 10 – Equality Analysis**

49. Discussion took place on the findings from the 'Accessibility and Outcomes' research and the annual 'Customer Satisfaction Survey'.

50. Discussion took place on how the ethnicity dimension related to access to justice and high quality legal services in the current marketplace. It was noted that it would be good for the OLC to work with the LSB on this area.

**ACTION:**

- **The E&D Manager to report back to a future board on the research findings regarding ethnicity and disability.**
- **The E&D Manager to join up with the LSB on the work undertaken on how the diversity dimension built into the market place.**

51. The Chair thanked the E&D Manager for the work undertaken.

**Item 11 – 2016 Budget Principles**

52. The interim Director of Corporate Services presented the 2016 budget principles. It was noted that the staff benefits regularisation was as yet



unaddressed and the budget would need to be adjusted once confirmation was received.

53. The Chair summarised that it was appropriate to share these principles with the LSB. Planning to achieve and maximise efficiencies should be undertaken. The implications of the Government Spending Review would need to be taken into account and the draft budget that resulted would inform the January strategic discussions. The outline budget and strategy would obviously have to go to consultation before finalised versions were put to the LSB next March.

### Item 12 – Publishing Decisions

54. Discussion took place on the publishing decisions policy and the format in which the information was published. It was noted that currently the data was not used to provide common learning.
55. It was noted that the Legal Services Act states that the OLC can only publish ombudsman determinations. Currently all Stage 2 ombudsman decisions were published whether there was a finding of poor service or not.
56. It was agreed that the interim Head of Policy and Communications would circulate the draft policy statement to provide the background context. She would also circulate a draft proposal of how to publish category 2 decisions in the future.

#### **ACTION:**

- **The interim Head of Policy and Communications to circulate the draft policy statement and a draft proposal of how to publish category 2 decisions in the future.**

### Item 13 – Board Working

57. Discussion took place on the future options regarding the publication of Board Minutes. It was agreed that redaction linked to FOI exemption, was the favoured option.
58. It was agreed that the working practice would be delegated to the executive to finalise with the aim that the minutes would be presented to the Board for approval which would highlight areas where published minutes would be redacted and identify the relevant FOI exemption which was being applied. Unpublished minutes from recent months would be brought to the Board in this manner as part of a paper. The minutes of the previous meeting would be brought forward for approval with an attached note highlighting any proposed redactions.

#### **ACTION:**

- **The Board Secretary to formalise the process for the production of board minutes.**

#### **Item 14 – Complaints Volume Research**

**59.** Discussion took place on the research undertaken to consider the internal and external factors which could be affecting complaint volumes.

**60.** It was noted that there were limited resources within the organisation. It was therefore agreed that the Chief Executive would meet with Prof Plowden to discuss how this key area of research could progress. An update would then be provided at the next OLC Board meeting.

#### **ACTION:**

- **The Chief Executive to meet with Prof Plowden to discuss how this key area of research could progress. An update to be provided at the next OLC Board meeting.**

#### **Item 15 – Any Other Business**

**61.** The Board agreed to ratify the decision of the selection panel for the appointment of the new Chief Ombudsman. The executive would work on the communication plan to announce to stakeholders.

#### **ACTION:**

- **The Chief Executive to work with the interim Head of Policy and Communications on the communication plan to announce the appointment of the new Chief Ombudsman.**

**62.** Members noted that this would be Ian Brack's last meeting. The Chair thanked him for the massive contribution he had made and also for the support during the permanent Chief Executive's handover. The Board all wished Ian well in his future.

**63.** Ian Brack thanked the Board in return for their advice and support. He also thanked staff members for their patience, support and hard work.

#### **Next meeting**

**64.** The next OLC meeting would be held on Wed 9 December in Birmingham.