

Meeting	OLC Board	Agenda Item No.	4
		Paper No.	118.3
Date of meeting	26 January 2022	Time required	20 minutes

Title	Executive Report
Sponsor	Paul McFadden, Chief Ombudsman
Status	OFFICIAL

Executive summary
<p>LeO experienced an expected decrease in December through the festive period, but closures were above revised assumptions (based on a realistic assessment of the impact of the festive break and the resources available to LeO) and exceeding the closure rates for the equivalent point in 2020 with significantly less established resource.</p> <p>Board will note a number of highlights for December performance including the fact that year to date average monthly investigative closures now exceed 2020/2021 by 10% and year to date average closures (including early resolution) exceed 2020/21 by 30%; and that average investigation times across 2021/22 for low complexity cases has seen a 15% over the course of the year.</p> <p>Our Early Resolution work continues to deliver a better balanced and quicker service for customers. Early Resolution pilots have delivered 682 closures so far in 2021/22. In December, early resolution customers with low complexity cases had an average CJT which was 48% shorter than the average YTD CJT for low complexity cases overall.</p> <p>Our performance and people updates will provide to consider further the successful outcome of the recent national recruitment campaign and LeO's aim of not only reaching the 2022/23 staffing complement but recruiting for future assumed attrition to allow LeO to get to the best staffing position possible in advance of 2022/23. Plans have also progressed for a potential first LeO Hub with a site visit undertaken to assess feasibility ahead of a potential proof of concept pilot.</p> <p>Board will note the Executive's focus on developing the 2022/23 Budget and Business Plan and Budget Acceptance Criteria for submission to the OLC Board for approval on 11 February, including response to assurance sought from ARAC and the OLC Performance & Quality Group on key elements of this.</p> <p>The review of LeO's Scheme Rules is progressing close to a point of consultation with the the oversight and review of key proposed changes by the OLC Sub Group. A draft consultation paper and relevant supporting information will come to the sub-group of OLC Board members for dicussion and approval at the end of January.</p> <p>Board will note updates on finance and governance and ARAC updates on management of the ongoing risk in relation to underspend.</p>
Recommendation/action required
OLC is asked to NOTE the paper.

Executive Report

Performance and People

At December OLC Board we reported significant progress and improvement in performance across October and November 2021. A decrease in December was expected due to the festive period, but closures were above revised assumptions (based on a realistic assessment of the impact of the festive break and the resources available to LeO) and exceeding the closure rates for the equivalent point in 2020 with significantly less established resource.

The following key highlights for December 2021 provide Board with a clear summary of performance:

- 466 customer closures (371 investigation closures plus 95 early resolution closures) compared with a revised assumption based on available resource of 365. This exceeds the closure rate for December 2020 with 16% less established resource (59.57 FTE in post compared with 71.43 FTE in December 2020).
- In 2021/22, on average, 116 more additional customers closures are being delivered each month than in 2020/21. Year to date average monthly investigative closures exceeds 2020/2021 by 10% and year to date average closures (including early resolution) exceeds 2020/21 by 30%
- 59.57 established investigators in post against a Business Plan assumption of 78.47. This was complemented by 39.58 FTE new investigators who are coming up to productivity.
- Productivity down compared to the high point reached in the previous month as a result of the festive break. 4.53 on investigation closures against a Business Plan assumption of 6.3. Including early closures, productivity was 6.13. New investigators continue to perform above the set expectations.
- PAP backlog reduced slightly and stands at 5747 against an original Business Plan forecast of 4939. This is due to less being added to the PAP. Current Projected PAP size for end of year is 6300.
- Customer journey times remains high due to the PAP backlog. Performance was better than our target for low complexities (Low 277 against target of 325, Medium 518 against target of 500).
- Across 2021/22, the average length of time for an investigation to be completed has continued to decrease. Average investigation times across 2021/22 for low complexity cases (67% of LeO's workload) is 89 days and averaged 80 days in December – this is a 15% improvement from the beginning of the year.
- Early Resolution pilots have delivered 682 closures so far in 2021/22. In December, customers with low complexity cases closed through the early resolution process had an average CJT of 144.04 days which is 48% shorter than the average YTD CJT for low complexity work cases.

Looking ahead to the remainder of 2021/22 our focus remains on further improvement and delivering the best possible performance as we approach the last quarter of the year. We remain below the forecast targets set in our 2021/22 Business Plan, although we are beginning to approach these and now forecast ending the year at 90% of closure forecasts with average of 87.5% average resourcing across the year.

Our performance and people papers provide updates on our recent national recruitment and the significant efforts to respond to the overwhelming response to this campaign and our aim of not only reaching the 2022/23 staffing complement but recruiting for assumed attrition for Q4 2021/22 and Qs 1 and 2 2022/23. As Board have been updated separately by the Chief Operating Officer this is the largest scale recruitment LeO has ever attempted with the campaign attracting almost 900 candidates and allowing us to offer roles to 41 – 47 people. This success will now allow LeO to get to the best staffing position possible in advance of 2022/23 and adds significantly to confidence around the core elements of our 2022/23 Business Plan trajectories.

Consultation & 2022/23 Budget & Business Plan

The consultation on the 2022/23 Budget and Business Plan closed on 13 December 2021, with a total of 10 written responses received from a range of stakeholder groups, including consumer organisations, professional bodies, and legal regulators. A full stakeholder responses paper was issued to Board members in December and is now being used to to inform our developing Business Plan and Budget submission.

Analysis of the written responses once again showed that confidence levels in the organisation have improved over the last financial year and showed support for the radical approaches outlined in the consultation. There remains, however, a level of concern that performance and recovery trajectories for 2022/23 onwards may not be achievable in the time frames specified. A summary report will be shared with stakeholders in February which will outline how responses have informed the content of the 2022/23 Budget and Business Plan proposals.

The Executive's focus in January is on developing the 2022/23 Budget and Business Plan and Budget Acceptance Criteria for submission to the OLC Board for approval on 11 February. Business Plan development has involved cross-organisation engagement to finalise the deliverables and activities with our Management Team and align project scope, deliverables, responsibilities and timelines.

The developing LSB Budget Acceptance Criteria has included input from the OLC Performance & Quality Group to challenge and support the strengthening of detail and key messages. The Programme Management and Assurance Team have, in response to feedback from LSB engagement and feedback, developed a waterfall chart to better demonstrate the basis of future trajectories and ongoing or planned initiatives.

Budget Setting Assurance was discussed at the January ARAC, with the Executive responding to the criteria outlined by the ARAC Chair. An update on this in response to the Executive Budget Setting will be heard later in the agenda.

Throughout Q3 and Q4 the Executive's focus also remains on key 2021/22 Business Plan projects and deliverables with progress across all three priorities. A full update on our delivery of the 2021/22 Business Plan will be provided in due course.

Scheme Rules Review

Our Scheme Rules review is progressing to its final stages with an aim of completing consultation and feedback by March 2022 and having changes developed and agreed and implemented as early in 2022/23 as possible. The Executive have been working closely with the OLC Board Sub Group and have had two meetings, to date, to discuss the substantive content of the proposed changes and the style and format of the upcoming consultation. This has included some preliminary impact assessment work to support the proposed changes outlined. A further meeting of the Sub Group is scheduled for 28 January when the consultation document itself will be reviewed for approval.

There are over 20 proposed individual changes to the existing scheme rules and for ease of reference the consultation will group these changes into three areas;

- the significant and radical changes (that have been the principal focus of discussions with OLC Sub Group), which will guide clear changes to LeO's handling of complaints and processes and look to enable greater proportionality and efficiency of approach whilst maintaining an appropriate balance and focus on fairness, access to justice and protecting vulnerable complainants.
- a call for views and evidence on changes that will inform future direction of travel, and
- changes that provide minor improvements and rectify historic drafting errors.

The key areas to be addressed under the significant and radical changes relate to a revision of our time limits; clarification around the exercise of an Ombudsman's discretion to accept or dismiss new or existing complaints; and, access to an Ombudsman decision. All of these changes are designed to make the business process more proportionate and efficient and enable us to better manage demand for our service. More importantly however, they will also offer improve the overall customer experience by enabling operational staff to deal with new and existing complaints more swiftly thereby improving the customer journey and reducing the size of the backlog.

We also intend to seek views on two longer term proposals for change which will require either legislative change or further detailed assessment – the first being further delegation of decision making which we believe will drive earlier resolution of complaints and enable more efficient use of resource. This would be in line with the approach of many other Ombudsman schemes. The second revolves around the application of case fees which we believe could be used as a means of incentivising earlier resolutions by way of commercial offers where appropriate. Although we intend to set out our longer term intentions in these areas, these proposed changes would either require changes to primary legislation or the approval of the Lord Chancellor before they could be implemented and therefore are not changes that will bring immediate improvements in 2022/23.

We are engaging with colleagues at LSB in relation to proposed timescales it remains our intention for the consultation to be launched in February. We will be aiming to bring the feedback from the consultation and a final proposed set of new scheme rules to OLC Board in March with a view to taking our proposal to LSB's April Board meeting for their consent to the proposed changes, recognising that this timescale is challenging.

Stakeholder engagement and Enhanced public reporting

Stakeholder engagement remains focused primarily on the 2022/23 draft Business Plan and Budget consultation and stakeholder engagement on the Scheme Rules consultation.

On Scheme Rules, consumer engagement is a key focus, alongside engagement with the regulatory and professional body community, to ensure that any proposed changes have a clear benefit for those using the Legal Ombudsman service, and that there are no or detrimental impacts to individual consumer groups. Meetings are being scheduled with organisations such as the Legal Services Consumer Panel and the Association of Consumer Support Organisations, and opportunities for wider engagement is being explored through the MoJ and the Ombudsman Association. Meetings with regulators and representative bodies commence on 24 January and will continue over the coming weeks and into the consultation period.

This advance engagement will support the development of our proposals and will hopefully provide assurance to LSB that a broad range of stakeholders have been engaged with and have had the chance to comment on our proposals.

Ongoing OLC and LeO engagement continues in a regular basis with the MoJ and LSB in various forms, including with MOJ policy colleagues and formal MOJ Business Assurance Meetings and a mix of formal and informal meetings with LSB Executive and Board.

The Chief Ombudsman is happy to update members further on stakeholder engagement over this period.

Service Improvement, Quality and Legal

We continue to experience resource issues across the service improvement function, particularly in relation to quality. This continues to impact the level of proactive service on service improvement and quality that can be delivered.

The search for a Quality Manager has proved unsuccessful to date despite advertising directly and also through a number of recruitment agencies. The role requires an experienced appointee who can lead on the delayed review of our quality framework but the standard of external interest has been poor with most applicants either seeking their first move into a management level role or coming from a manufacturing background. We are now reviewing the scope and content of the role and job description and seeking advice from recruitment agencies with a view to going back out to the market imminently with a revised proposition. It should be noted that the quality team continues to deliver on quality assurance and customer satisfaction work through the efforts of the remaining

member of the quality team and therefore a continuing level of assurance around the quality of our substantive work can be provided.

We have had success in appointing a new Legal Manager who will join the team at the end of March. The current absence of a qualified solicitor in the team does create challenges when dealing with legal claims. We have procured the services of direct access barristers to ensure that papers are issued and deadlines met and as a result there has been no adverse impact on the service provided by the legal team. We are also now taking steps to procure on demand external legal advice from a law firm on the CCS panel to ensure that there is consistent access to legal advice when needed and a level of resilience moving forward.

The service complaints team continues to handle new complaints about the service provided by LeO in a timely manner and uses the insight gained from their reviews to drive service improvement and reduce operational risk. The team is currently experiencing some absence issues but has been able to keep pace with demand to date. We will continue to review the position in that team if absence levels persist or increase.

Risk Management, Audit & Governance

Management Team actions and mitigations are having a positive impact with risk scorings reducing at the end of December. This has been driven by a shift in scoring in Operational Delivery and External Affairs teams. Whilst risks remain high in relation to backlogs, recruitment and retention, the PAP initiatives and national recruitment campaign are beginning to shift this in the right direction. Recruitment into corporate roles remains a challenge and the HR team alongside hiring managers are working with several agencies to source candidates, as well as looking to hire through a managed service route i.e. Risk Manager. All other risks have been updated accordingly in line with the month end process.

Development of a more comprehensive approach to risk appetite remains a priority for the Executive and initial proposals on risk appetite for risk themes was shared with ARAC members in January for review and comment. In the absence of a Risk Manager, the Head of Programme Management and Assurance will further develop these with support from the Business Intelligence Manager for 2022/23.

The Performance Reporting Audit has concluded and received a moderate score. Proposed management actions were recently shared with GIAA. Planning meetings for the Payroll and Change and Transformation audit have been confirmed and will take place by the end of January. Internal Audit planning for 2022/23 between the GIAA lead and the Executive Team took place on 12 January, with a view to sharing proposals with the ARAC Chair by the end of January.

Work is underway with the LeO-wide policy review and update. Whilst progress is being made across all key areas, there is some slippage from plan as a result of resource constraints with those involved in the update process. These are being managed with mitigation in place where possible to reduce impact.

We remain unable to progress the financial management GIAA audit actions included within project scope until we receive our Delegated Commercial Authority Letter from MoJ.

Return to Office (RTO) and future ways of working

With the recent change in Government guidance the Executive are currently making arrangements for return to the office and hybrid working. This will take account of concerns raised around short term childcare provision and will provide an appropriate period for re-adjusting to the hybrid model.

Our commitment to a permanent model of hybrid working remains and has been communicated to staff. Our consideration has taken account of a Hybrid Office Working Survey was completed by staff in December. The data collated has been reviewed with the Executive Team, Command Team and Staff Council to outline a clear action plan in response to key concerns raised in relation on returning to the office.

Oversight and management of Return to Office and covid related issues continues to be facilitated through regular Command Team Meetings to identify and review key priorities, actions and next steps.