

Minutes of the One Hundred and Fifth Meeting of the Office for Legal Complaints (OLC)

Monday 29 June 2020: 11:30 – 15:30, by video call

Present:

Elisabeth Davies, Chair
Lis Bellamy
Rod Bulmer
Rebecca Hilsenrath
Shrinivas Honap
Annette Lovell
Jane Martin

Board Secretary:

Kay Kershaw

In attendance:

Rebecca Marsh, Chief Ombudsman
Siobhan Fennell, Head Ombudsman
Brendan Arnold, Director of Corporate Services (Items 1-4 and 7 to 15)
Steve Pearson, Head Ombudsman (Items 1 to 4, and 6 to 15)
Mariette Hughes, Head Ombudsman (Items 1-4 and 6 to 15)
Michael Letters – Financial Controller (Items 1-4 and 7 to 15)
Marcus Passant, Head of HR (Items 1-4 and 7 to 15)
David Anderson – Head of IT (Items 1-4 and 7 to 15)
Laura Stroppolo, Business Planning Manager (Items 1-4, 6 to 15)
Alex Moore External Affairs Team Leader (Item 11)
Kerensa Scott, Executive Assistant

Preliminary issues:

The Board meeting was quorate.

Item 1 – Welcome, apologies and declarations of interest

1. The Chair welcomed attendees to the meeting and introductions took place.
2. There were no apologies.
3. There were no declarations of interest reported.

Item 2 – Previous Minutes

4. The minutes of the OLC Board meeting held on 27 April 2020 were **approved** for accuracy and **approved** for publication.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting 27 April 2020.

5. The minutes of the ARAC meeting held on 2 March 2020 were **approved** for publication.

ACTION: Board Secretary to publish the minutes of the ARAC meeting held on 2 March 2020.

Item 3 – Matters arising and outstanding actions from previous meetings

6. The Board **ratified** an out of committee decision made in May to approve the 2020/21 Capital Programme Budget of £250,000.
7. The Board **ratified** an out of committee decision made in June to approve an increase in revised rent (£440,232.50 plus VAT over 5 years) payable under the lease of the Legal Ombudsman's office premises. The memorandum of Rent Review, signed by the OLC Chair, was returned to the Landlord on 19 June 2020. Subsequently, the Landlord's representative asked for the Memorandum of Rent to be amended to set out that the figures were exclusive of VAT. The OLC Chair authorised the amendment and a revised Memorandum of Rent was submitted to the Landlord on 26 June 2020.
8. The BSB/OLC Board to Board meeting has been rescheduled to 26 November.
9. The RemCo meeting on 14 July has been cancelled and a new meeting will be scheduled for September.
10. Black Lives Matter (BLM) has been added to the agenda for discussion at the July Board meeting in recognition of the OLC Board's role, responsibility and commitment to diversity and inclusivity. This will link to other HR items on the agenda for discussion, whilst recognising it will also pick up on service delivery issues.
11. Rebecca Hilsenrath reported on work being undertaken by the Association of Chief Executives to identify ways for public sector bodies to work together to improve diversity and encouraged LeO and OLC to become involved in this work.
12. Alison Wedge offered to share a pack produced by the MoJ to help line managers have conversations with staff on BLM and the latest version of the MoJ's race action plan with the CO.
13. The Board **noted** the following updates on outstanding actions from the previous meetings:
- Action 7, para 50 April meeting: There are a number of options being considered to contextualise the Service Complaint Adjudicator's (SCA) report when it is published, including consideration being given to publishing a 'management response' to sit alongside the SCA's report. This action will now be closed.
 - Action 10, para 73 April meeting: The Financial Controller issued a note to the Board on 26 June explaining the final salary variance. This action will now be closed.
 - Action 16, para 104 April meeting: The April Board papers have been published to the LeO website. This action will now be closed.
 - Action 9, para 58 March meeting: This action has not yet been completed. The Chair explained that this action would be revisited outside of the Board meeting to ensure that an appropriate record is produced.

ACTION: Board Secretary to update the outstanding actions log.

14. Board Members asked that action 3, para 16 from the April Board papers remained open and marked as ongoing.

ACTION: Board Secretary to update the action log to reflect that this action is ongoing.

15. At its April meeting, RemCo had requested a further iteration of the People Plan to be presented at its July meeting. The Chair of RemCo reported that she did not want the completion of this action delayed as a result of the July meeting being cancelled.

ACTION: Head of HR to ensure that the final iteration of the People Plan is circulated to RemCo out of committee before 14 July.

16. The Chair of RemCo reported that it was regrettable that sharing the action plan in response to the Independent review had been postponed to the July meeting.
17. The Board **noted** the update on matters arising and actions from previous meetings.

Item 4 – RemCo Terms of Reference

18. At a meeting on 29 May, RemCo agreed some minor amendments to its Terms of Reference (ToRs) to include responsibility for nominations in respect of certain staff.
19. The amended ToRs were presented to the Board for review, formal approval and adoption.
20. Subject to a minor amendment to paragraph 6b, the Board **approved** the RemCo ToRs.

ACTION: Board Secretary to amend paragraph 6b and publish the updated RemCo Terms of Reference to the LeO website.

Item 5 – Executive Report

21. The Board was updated on the progress that had been made on restructuring the senior team and the steps that had been put in place to mitigate the short term risks whilst staff move into new their roles and until the current Chief Ombudsman (CO) leaves the organisation.
22. The CO reported on additional risks during the intervening period between her departure and the new the Chief Operating Officer and CO joining the organisation, the most fundamental being the appointment of a designated, as distinct to the functional delivery of the role, Accounting Officer (AO).
23. The Board discussed the risks and its immediate responsibility for addressing them, including to liaise with the MoJ to ensure a suitable AO is appointed to cover the role until the new CO joined the organisation.
24. Alison Wedge outlined the MoJ's role in appointing the AO and the options it had to either appoint from within the organisation (following a proposal put forward by the Board) or to take on the role itself until the new CO was appointed. The Board was advised that Principal Accounting Officer would need to be assured that the proposed candidate for the role of AO was of good standing and understood the principals of Managing Public Money. An initial meeting between the MoJ and OLC Chair had been scheduled to discuss this.
25. It was suggested that consideration might be given to a Board Member taking on the AO role, or for someone from outside the organisation who had previous experience of the role, if it was not possible to appoint a candidate from within the organisation. Additionally, it might also be

possible to consider the new COO for the AO role, if they had the suitable skills and were in post before the CO departs the organisation.

26. The Board discussed the impact of Covid-19 on the recruitment market and the implications for appointing the new COO and CO.
27. The Board acknowledged the need going forward to ensure that there was adequate succession planning to ensure resilience within the AO role and other senior positions.
28. Following discussion, the CO advised that she would be working with the Chair and MoJ to consider the options for the AO role and a set of options and proposals would be shared with the Board at the July meeting

ACTION: The CO to share the options and proposals for the AO role with the Board at its meeting in July. Board Secretary to add to the Board's forward plan.

29. The Board **noted** the Executive Report.

Item 6 – Performance report and COVID-19 update

30. A paper providing the Board with an update on performance in May 2020 was circulated to the Board prior to the meeting. The paper included an update on the impacts of Covid-19 on performance and how they were being mitigated; details of matters under consideration for planning a return to the office environment and planning for operational recovery. The paper also set out a response to actions arising from the March and April Board meetings regarding a matter raised by Staff Council about lost administrative time.
31. Head Ombudsman, Steve Pearson, reported that performance in May was in line with expectations. An increase in the pre-assessment pool and the work in progress within the General Enquiries Team (GET) had been seen. The number of contacts into GET had fluctuated over the last few months; this was being closely monitored in order to determine the underlying trends and what interventions would be needed to address this. A more detailed assessment of the performance data would be provided to the Board at the end of Q1.
32. Head Ombudsman, Mariette Hughes, briefed the Board on proposals being considered by the Executive to mitigate the effects of Covid-19 on performance, which could be implemented during the pandemic, or once the situation has eased, as a means of stabilising and addressing performance recovery.
33. When considering these proposals, the Executive had concluded that options within the current operational framework to identify further efficiencies were limited. Any significant improvements to operational delivery would therefore require improvements in the existing performance of staff, and / or a significant change to LeO's service delivery model.
34. Such changes to the service delivery model would carry significant risks in terms of staff engagement and the People Plan deliverables and there may be cost implications that would also carry a set of risks. LeO's standstill budget meant that it was not sufficiently resourced to pilot proposals for alterations to the service delivery model that were being put forward for consideration.
35. The Board considered the advantages and disadvantages of each of the proposals in a detailed discussion. Board Members had differing views and risk appetites for each of the

proposals along with proposing and checking additional options that had not been included in the presentation.

36. The Chair concluded that in order to progress this, the Board needed greater detail and confidence on the impact of the proposals on future performance. The Executive was asked to undertake further work to provide the Board with its proposals, recommendations, costs and more clarity on the likely impact of what could be achieved for each proposal in terms of operational recovery for further consideration at the July Board meeting.

ACTION: The Executive to provide the Board with proposals, its recommendations, associated costs and more clarity on the likely impact of what could be achieved for each of the proposals in terms of operational recovery for further consideration at the July Board meeting. The Board Secretary to add to the Board forward plan.

37. The Board **noted** the performance report and update on COVID-19 recovery planning.

Item 7 – Finance report

38. The Board **noted** the report on the financial position at the end of month 2.

39. It was agreed that an update on the debt position at the end of Q1 would be provided to the Board at the July meeting.

ACTION: Financial Controller to include an update on the debt position at the end of Q1 in the July finance paper.

Item 8 – Budget Learning Review

40. The Chair updated the Board on the Budget Learning Review and the progress that had been made to date.

41. Meetings between the Chair and members of the Management Team were due to be completed by 3 July which would inform the proposed timescales and planning for the 2021/22 budget submission, subject to further discussion with the LSB.

42. In a discussion about the possibility of submitting an in-year budget application, the Chair advised that an additional budget submission would not be made until the Board was sufficiently assured that lessons had been learned from the 2020/21 budget application process; until the Board had sufficient confidence in the performance data; and until the Board felt that it was the right time to do so. The Chair would continue to monitor this and ensure the Board had the opportunity to assess progress. The Chair assured the Board that an in-year budget application would not be made without full Board approval.

43. The Board was assured that the principals of project management were being embedded in all areas of the organisation's work and not just the budget application process.

44. The Board **noted** the update on the Budget Learning Review.

Item 9 – Update on the Performance and Quality Task and Finish Group

45. The Chair of the Performance and Quality Task and Finish Group, Rod Bulmer, updated the Board on the first meeting of the Performance and Quality Task and Finish Group (P&Q Group) held on 5 June, where it was decided that a staged approach would be adopted to reviewing and developing the forecasting model:
- Understand – understanding how the current model was built and the assumptions that were built in.
 - Improvement and confidence (static model) – the activities associated with gaining confidence that the model is robust and acts as a static budget setting tool.
 - Utilisation dynamic model – the activities that improve the model and allow it to become dynamic and to dynamically reforecast.
 - KPIs – developing a data set and KPIs that provide a robust basis for all internal and external reporting.
 - Control and governance - activities required to ensure the right control and governance around modelling changes.
46. The Chair of the Performance and Quality Task and Finish Group further updated the Board on the initial observations from the first meeting:
- The current forecasting model is a static budget setting tool and isn't configured to easily model different sets of assumptions. The Group will therefore decide in the future whether to try to convert it into a dynamic forecasting model or whether there is a requirement to build a dynamic forecasting model.
 - The current forecasting model is borne out of productive capacity and not borne out of process improvement.
 - There was a much stronger control and governance to the model changes than originally understood and therefore expected operational delivery to be much closer to the forecast or budget than it was. This evidence of disconnect would need to be resolved.
47. The second meeting is to take place following the Board meeting on 29 June and will focus on the assumptions set that underpins the forecasting model.
48. It was hoped that within the next two meetings the Group would be sufficiently assured that the model is effective as a static budget setting tool.
49. For clarity the Chair of the Performance and Quality Task and Finish Group explained that the model in its current format cannot forecast the impact of process improvements, it would simply forecast the resourcing that would be required based on a given productive outcome against a given set of demands and assumptions. Considering this, the Board would therefore need to make a judgement on whether the modelling was sufficiently robust if it is to be used to underpin an in-year budget submission and to ensure that the LSB fully understood the concept of the modelling used.
50. The Board **noted** the update on the Performance and Quality Task and Finish Group.

Item 10 – Update on the ARAC meetings held on 15 May and 29 June 2020

51. The Chair of ARAC reported on the meeting that had taken place before the Board meeting where the Committee had agreed to recommend to the Board that it should approve and sign off the 2019/20 Annual Report and Accounts.
52. The Auditors had not made any specific request in terms of immediate adjusting items but had asked for £177,000 of adjusting items to be made after the year end.
53. Discussions had taken place about concerns raised by External Audit regarding the quality of working papers and the improvements that were needed going forward. The Committee was assured that the Financial Controller was forming a plan to address the concerns that had been raised.
54. ARAC had received an update on the progress that had been made on actions arising from Internal Audits.
55. Members of ARAC had requested that they should be engaged earlier next year on the narrative elements of the Annual Report and Accounts.
56. The Committee had requested a clear policy on provisioning for the debt book.
57. The Board **noted** the update on the ARAC meetings.

Item 11- 2019/20 Annual Report and Accounts

58. The Chair reported that the National Audit Office (NAO), having reviewed the 2019/20 Annual Report and Accounts, felt that that the governance statement reflected their previous feedback and now presented a fair, balanced and honest overview of the issues faced by the organisation.
59. The Board was advised that the draft Comptroller and Auditor General report had been received and would be added to the Annual Report and Accounts. Subject to a few minor design amendments, the correction of some typographical errors and a final read through the Annual Report and Accounts was ready to be finalised in line with the agreed timetable.
60. Following discussion, the Board **approved** the 2019/20 Annual Report and accounts, subject to the final, minor amendments.
61. The Board provided feedback to improvements that could be made to future Annual Report and Accounts, including a greater emphasis on highlighting organisational successes.
62. The Board was advised that an in-depth learning review would be undertaken at the end of this year's process and would include seeking the views of Internal and External Audit, the Board and members of staff. This learning would be shared with the Board.

ACTION: Board Secretary to add Annual Report and Accounts learning review to the Board forward plan.

Item 12 – OLC Rules of Procedure

63. Changes have been made to the OLC Rules of Procedure (RoP) to reflect the change of Chair, the restructure of the senior team and the new ways of working.

64. The Board reviewed and approved the changes to the RoP, subject to a minor amendment to the start date of one of the Board Members.

ACTION: Board Secretary to amend the RoP and publish the updated document to the LeO website.

Item 13 – Board Paper Redactions and Non-Disclosure report

65. The Board reviewed a paper setting out the redactions and items for non-disclosure proposed in respect of the June Board papers.

66. The Board **approved** the items identified for redaction and non-disclosure.

67. **ACTION: Board Secretary to publish the June Board papers subject to the approved redactions and items for non-disclosure.**

Item 14 – Board Effectiveness

68. The Board will be revisiting the 2018/19 external Board Effectiveness review at its meeting in September.

69. The Chair invited a Board Member to provide feedback on the meeting and to comment on which sessions had worked well and where there was learning and value in doing things differently in the future:

- Presentation slides – Presentation slides should be shared in advance of Board meetings so that Board Members had time to reflect on the information within them. This would ensure that less time was taken up introducing and presenting the information and the time available for debate would be maximised.
- Board Papers – Papers need to provide the Board with more over-arching context and steer in order to prevent Members being drawn into the detail. Papers need to provide a risk weighting.
- Agenda timings – More thought needs to be given to the timing of agenda items.
- Board meeting attendees – It was helpful to have the MoJ present for discussions on the AO role. The executive should consider which staff should attend specific agenda items in the future.
- Board consensus - Board Members had very helpful frank and open discussions at the Board meeting. Board Members didn't always agree with each other, especially in regard to risk appetite. It was felt that if Board Members were to understand each other's backgrounds and experiences, it might help to create a more unified sense of risk appetite which, in turn, would help them to provide the executive with a better steer on risk management. The Chair agreed to reflect on this in the context of the Board effectiveness review and a wider approach to Board development.

Item 15 – Any other business

70. The Chair of ARAC advised of the need for LeO to have a policy on dealing with Ransomware demands. The Head of ICT and Governance reported that this was being

addressed and would update the Chair of ARAC in a telephone meeting scheduled for later in the week. .

- 71.**The Chair thanked Brendan Arnold, DCS, on behalf of the Board, for his work and commitment to the LEO and wished him well for the future.
- 72.**It was suggested that the Board should consider its appetite for meeting meet face to face now that the lockdown restrictions were being eased.