

Minutes of the 136th Meeting of the Office for Legal Complaints (OLC)

18 December 2024

<p>Present</p> <p>Elisabeth Davies, OLC Chair</p> <p>Elaine Banton, OLC</p> <p>Georgina Philippou, OLC</p> <p>Rachel Cerfontyne, OLC</p> <p>Hari Punchihewa, OLC</p> <p>Alison Sansome, OLC</p> <p>Martin Spencer, OLC</p> <p>Patricia Tueje, OLC</p>	<p>In Attendance</p> <p>Paul McFadden, Chief Ombudsman</p> <p>Steve Pearson, Deputy Chief Ombudsman</p> <p>David Peckham, Head of Operations, Business Intelligence, Operational Transformation and Interim Head of IT</p> <p>Blessing Simango, Head of Finance, Procurement and IT</p> <p>Laura Stroppolo, Head of Programme Management and Assurance</p> <p>Stephanie Godbold, Head of Communication, Engagement and Impact</p> <p>Debra Wright, Head of People Strategy and Services</p> <p>Sarah Gilbert, Strategic Engagement Manager - item 2</p> <p>Penny Fellows, Quality Manager – item 4</p> <p>Devika Assi, Legal Manager - item 5</p> <p>Jodie Handley, Ombudsman Specialist- item 6</p>
<p>Minutes</p> <p>Kay Kershaw, Board Governance Manager</p>	

Item 1 – Welcome, apologies and declarations of Interest.

1. The Chair welcomed attendees to the meeting and introductions took place.
2. Apologies were noted from Mike Harris, Interim Head of Communication, Engagement and Impact.
3. The meeting was quorate with a lay majority.
4. There were no conflicts of interest reported.

Item 2 – Chief Ombudsman’s Report

5. The Chief Ombudsman (CO) presented an in-quarter report, updating the Board on key progress and performance to date. The following key points were drawn to the Board’s attention:
 - A full quarter three update would be provided at January’s Board meeting.
 - Case resolution performance remained high, but increasing levels of demand continued to have an adverse impact on the pace at which the unallocated investigations queue and customer journey time reduced.

- Attrition continued on a downward trajectory and sickness absences, whilst still higher than forecast, had reduced slightly during the quarter.
 - The 2025/26 Budget, Business Plan and consultation had been a key focus throughout quarter three. The Executive had engaged with internal and external stakeholders to answer questions and hear views on the Budget and Business Plan, and the formal consultation had closed on 13 December 2024, with nineteen responses received from a range of respondents.
 - The formal Budget and Business Plan consultation had been launched on the same day the changes to employer's National Insurance rates had been announced in the Autumn budget. The options to manage this unexpected increase in budgetary costs was to be considered along with the consultation responses as the Executive refined and finalised the 2025/26 Budget and Business Plan for Board approval in January 2025.
 - The headline findings of the 2024 People Survey had been positive, with improved scores for eight core themes, including 'Organisation Objectives and Purpose' which had scored 94%. The score for 'My Manager' had remained unchanged from the previous year at 75%. The detailed survey results were expected to be received in late November and following analysis by the Executive, would be shared with staff and with RemCo at its meeting in March 2025.
 - The 2023/24 annual report on complaints received and resolved by LeO had been published. Additional specific data and insight had been shared with the Chief Executives of the regulators to highlight the need for a cultural shift across the profession on welcoming and learning from complaints; this would be followed up in January with specific discussions on complaints handling best practice.
6. A verbal overview of the high-level responses to the Budget and Business Plan consultation was shared with the Board. Feedback had highlighted increased levels of confidence in LeO's Executive, and recognition of the progress that LeO had made. Views had been divided on the use of early resolution; LeO's impact work and the value of publishing decisions. Some formal consultation responses had been inconsistent with feedback that had been provided at in-person stakeholder engagement events.
7. Having considered the consultation feedback, the Board questioned whether more could be done to explain the inter-relationship between demand and demand costs, which were being driven primarily by poor first tier complaint handling, and LeO's learning and insight work, which aimed to reduce demand and its associated costs. The Executive would ensure that the inter-relationship between demand, demand costs and LeO's learning and insight work was sufficiently emphasised in the final 2025/26 Budget and Business Plan.
- ACTION: The Executive to ensure that the inter-relationship between demand, demand costs and LeO's learning and insight work was sufficiently emphasised in the final 2025/26 Budget and Business Plan.**
8. The Board reflected on the limited options available to manage the additional unexpected budgetary costs arising from the changes to employers National Insurance rates and what they would mean for 2025/26 Budget and Business Plan.

9. The Board discussed LeO's new hybrid working model and sought to understand how it had been perceived by the MoJ; how prepared LeO was for its implementation, and whether it posed any risks to productivity. In response, the Board was advised that:
 - The new hybrid working model had been developed in response to staff feedback for more flexibility and in discussion with the MoJ. The new model enhanced LeO's employee value proposition, mitigating some of the attrition and operational performance risks by ensuring that LeO operated a similar hybrid working model to its competitors; the MoJ was supportive of this.
 - LeO was well prepared for the implementation of the new model. Since the introduction of hybrid working following the Covid pandemic, LeO had provided training and support to its people managers to ensure they had the necessary skills required to lead and manage staff working remotely; productivity had increased and staff engagement had improved, enhancing LeO's cohesive culture and shared sense of values across its workforce.
 - Staff understood that the success of the new hybrid working model would be dependent on maintaining performance and meeting organisational objectives and that the Executive would take action to address any adverse impact on performance.
10. The Board had been pleased to note the positive headline findings of the 2024 People Survey which had reflected the work undertaken to deliver LeO's People Strategy and improve the employee experience. Following a detailed analysis of the survey results, work would commence to address any areas requiring further improvement. Staff would be kept updated on any action taken in response to the survey results.
11. The Board was advised that the identification of career pathways and more focussed forms of staff development would be a priority for the 2025/26 People Plan deliverables.
12. The Board **noted** the Executive's proposal for a staff survey to gather data and views on whether a formal Men's Network was required to support male colleagues at LeO. It was suggested that the survey was used to clarify what the purpose of the group would be.
13. Following a detailed discussion, the Board **noted** the Chief Ombudsman's report.

Item 3 – RemCo update

14. A verbal report on the RemCo meeting held on 27 November 2024 was provided by the RemCo Chair. The following points were drawn to the Board's attention:
 - RemCo had scrutinised the HR people metrics for the period April to October 2024, noting that attrition had fallen steadily, but overall sickness absence, driven mainly by an increase in long-term sickness absences and recurrent periods of short-term sickness absences by a small number of staff, had increased during 2024/25, with a slight decrease during quarter three. Mental health absences were high, but most were not work related. A deep dive review of individual sickness absence cases was being undertaken, to better understand what was driving sickness absences and identify whether more could be done in line with LeO's policies to support individuals and better manage sickness absences,
 - Significant progress had been made on delivering the People Strategy, the impact of which was reflected in the increasing levels of productivity; lower rates of attrition; positive people survey results; and the cyclical review and update of HR policies. All

deliverables for 2024/25, which included finalising the EVP, the attraction and retention strategy, succession planning, and talent management, were on track for completion by year end.

- RemCo had received a report on the 2024 gender pay gap, noting an 8% mean gender pay gap; a reduction of 3% compared to the previous year. The gender pay gap was expected to remain broadly static in future years unless there was any significant change in LeO's workforce profile, however LeO would continue to exploit opportunities to reduce the gender pay gap and drive positive action wherever possible. Opportunities to report on the pay gap for other characteristics such as disability and ethnicity may be explored in the future, subject to the availability of the required reporting data.
- RemCo reviewed it terms of reference; no changes were recommended.
- The RemCo Chair would submit a written report on November's RemCo meeting for circulation to the Board out of committee.

ACTION: The RemCo Chair to submit a written report on November's RemCo meeting for circulation to the Board out of committee.

15. The Board **noted** the RemCo update.

Item 4 – Customer Satisfaction: Overview

16. A presentation was given to the Board on LeO's approach to understanding levels of customer satisfaction at different stages of its process and how the insights and data were used to identify areas for further improvement.

17. The Board **noted** that a comprehensive review of LeO's approach to customer satisfaction, including benchmarking against other ombudsman schemes, would be undertaken in 2025/26.

18. The Deputy Chief Ombudsman **agreed** to reflect on when the revised approach to customer satisfaction would be shared with the Board.

Action: The Deputy Chief Ombudsman to reflect on when the revised approach to customer satisfaction would be shared with the Board.

19. The Board **noted** the presentation on customer satisfaction.

Item 5 – Annual legal update and enforcement report

20. The annual legal update and enforcement report was presented by the Legal Manager. The following key points were drawn to the Board's attention to highlight the work undertaken by the legal team over the last 12 months:

- The legal team had dealt with 31 new referrals to enforce ombudsman decisions; 121 referrals for the recovery of case fees, with an increase in recoveries following enforcement action totalling £30,400; 32 pre-action letters and 14 judicial review (JR) claims received from both service providers and complainants.
- A pragmatic and robust approach was adopted when dealing with JR claims and litigation risks and where possible the legal team would seek to defend JR claims without proceeding through the courts.

- No JR claims had been settled out of court. Two JR claims that had been granted permission to proceed, with court directions awaited and external Counsel appointed.
- In line with good corporate governance and guidance on Managing Public Money, the recovery of any costs awarded by the court after successfully defending a JR Claim would be actively pursued; £24,600 of cost had been recovered.

21. In discussion, the Board had questioned whether providers of legal services were more likely to pursue a legal challenge against an ombudsman's decision; whether there were any recidivist firms, and if so whether a different approach was required to dealing with their legal challenges; and whether information was made available to help individuals make an informed decision about pursuing a legal challenge against LeO. In response the following points were made:

- Whilst the number of legal challenges over the last three years had fluctuated, there was now less of a trend for service providers to make a legal challenge against an ombudsman's decision where there was no prospect of success.
- The legal team worked closely with operations to ensure that ombudsman's decisions were robust and defensible and learning from previous legal challenges was shared.
- There were no recidivist firms.
- To ensure transparency and to help individuals make an informed decision about pursuing a legal challenge, judgements highlighting matters that had previously been found in LeO's favour and a fact sheet highlighting the risks and cost consequences of an unsuccessful JR claim were shared as part of pre-action dialogue. Individuals were also advised to seek legal advice before pursuing a claim.

22. The Board **noted** the annual legal update and enforcement report.

Item 6 – Service Complaint Adjudicator Contract

23. A report was presented to the Board outlining the tender process and timeline for the appointment of a new Service Complaint Adjudicator (SCA); recommendations for improvements to the new SCA's terms of reference (ToR); and a summary of emerging thoughts on options for a future SCA role that would be considered as part a wider review of LeO's service complaints process being undertaken in 2025/26.

24. In discussion, the Board shared their thoughts on a future SCA role, stating that:

- There was benefit to LeO of having independent scrutiny of service complaints as it helped to bring closure to the service complaint process.
- Effective complaint handling at earlier stages of the service complaint process would help to minimise the costs associated with a SCA role.
- To acquire insight and assurance on a wider range of complaints, consideration could be given to expanding the role and focus of a future SCA, if budget allowed.
- The assurance provided by a SCA was valued, but there may be benefit in exploring alternative options, such as using an audit or inspection function or an alternative role title such as 'independent reviewer', which could provide the required level of assurance for a different cost.

25. The Board suggested that consideration should be given to improving LeO's website to ensure that information on service complaints and the service complaint process was more transparent and accessible to customers.

ACTION: The Executive to consider improving LeO's website to ensure that information on service complaints and the service complaint process was more transparent and accessible to customers.

26. In discussion about the perceived independence of a SCA, it was suggested that consideration should be given to whether more could be done to clarify the SCA's independence by drawing a distinction between this being a role that was appointed by the OLC but procured under contract and therefore not an employee of the OLC.

ACTION: The Executive to consider whether more could be done to clarify the SCA's independence by drawing a distinction between this being a role that was appointed by the OLC but procured under contract and therefore not an employee of the OLC.

27. Following discussion, the Board **approved** the plans to retender for a new SCA; **approved** the revised SCA's ToR; and **approved** the proposals for future options to be explored as outlined in annex C of the Board paper.

Item 7 – Annual review of governance documents

28. The Executive reviews the following governance documents on an annual basis and presents any recommended changes to the Board for approval: OLC Operating Framework; OLC Rules of Procedure; Schedule of Matters Reserved to Board; Scheme of Delegations; Terms of Reference for ARAC, RemCo, the Public Interest Decisions Committee and the Performance Sub-Group; and the OLC Governance Framework.

29. The Head of Programme Management and Assurance presented a report outlining the proposed changes to the governance documents following the Executives review in quarter three. The following points were drawn to the Board's attention:

- Incremental improvements had been made to the suite of governance documents over the last two years. A detailed review of the documents had taken place in 2023, with updates reflecting the findings of the external Board effectiveness review and a standardised format to ensure consistency. An Internal Audit of Governance earlier in 2024 had had received a substantial rating, providing assurance on the governance documents and the governance process.
- The proposed changes to the governance documents had been marked up in tracked changes for ease of reference.
- The Rules of Procedure had been updated to include reference to quorum of OLC Sub-Groups and would be further updated to include information on the extended terms of office for some Board members and to align the OLC's approach to the quorum of Board meetings with the approach set out in the LSB's Rules of Procedure.
- The Legal Services Act referred to Sub Committees of the Board and therefore they would continue to be referenced in the governance documents even though there were currently no Sub-Committees of the Board.
- It was proposed that delegated authority was given to the Chief Ombudsman to approve Memoranda of Understanding.

30. Following discussed and subject to the further changes to be made to the Rules of Procedure, the Board **approved** the suite of governance documents.

ACTION: The Head of Programme Management and Assurance to update the Rule of Procedure to include information on the extended terms of office for some Board members and to align the OLC's approach to the quorum of Board meetings with the approach set out in the LSB's Rules of Procedure and finalise the Governance Documents for publication.

Item 8 - Previous Minutes; previous actions and matters arising.

31. The minutes of the OLC Board meeting held on 24 October 2024 were **approved** for accuracy and **approved** for publication.

32. The minutes of the RemCo meeting held on 20 March 2024 were **approved** for publication.

ACTION: The Board Governance Manager to arrange for the minutes of the Board meeting held on 24 October 2024 and the minutes of the RemCo meeting held on 20 March 2024 to be published.

33. The Board **noted** the update on the actions from previous Board meetings and **agreed** that action 8 para 37 from the October 2024 Board meeting could be closed following the issue of the ARAC Chairs report out of committee on 18 December 2024.

ACTION: The Board Governance Manager to close action 8 para 37 from the October 2024 Board meeting.

34. The Board ratified a unanimous decision made out of committee in November 2024 to approve the appointments of three ombudsmen on secondment in line with the Chief Ombudsman's recommendation.

Item 9 - Board Paper Redactions and Non-Disclosure Report.

35. The Board **noted** and **approved** the items identified for redaction and non-disclosure in the December Board pack.

ACTION: The Board Governance Manager to publish the December Board papers in line with the redactions and items for non-disclosure approved by the Board.

Item 10 – Board Effectiveness

36. Patricia Tueje and Steph Godbold were appointed strategy champions for this meeting and provided feedback on which session had worked well strategically and why; which paper had been the most useful strategically and why; and where there was learning and value in doing things differently in the future to occupy a more strategic space. The following points were made:

- The best sessions and papers strategically had been the Chief Ombudsman's report and the overview of customer satisfaction. The high-level feedback from the Budget and Business plan consultation had provided helpful insight on stakeholders' views; and the results of the People Survey had shown the progress that had been made on delivering LeO's People strategy. Overall, the meeting had had a strong customer

focus; this had been strategically valuable in aiding a better understanding of how LeO's customers could be helped.

- There were no areas identified where doing things differently would be of value in the future to occupy a more strategic space.

11 – Any other business

37. Board members were reminded to book their hotel rooms for the night before February's Board workshop in Cardiff; details of the hotel had been shared with Board members by email.
38. Board members were reminded that the corporate hotel rate offered by a Birmingham hotel for room bookings the night before 2025 Board meetings was due to expire in mid-December and advised to book rooms as a priority to secure this preferential rate.
39. The OLC Chair thanked Steph Godbold, Head of Communication, Engagement and Impact, for her service to LeO and the OLC Board, and wished her well for the future.