

**Minutes of the Seventy-Sixth Meeting of the**

**Office for Legal Complaints (OLC)**

**Wednesday 7 December 2016**

**09:30 – 15:30 am**

**Legal Ombudsman, Birmingham**

**Present:**

Steve Green, Chair  
Caroline Coates, member  
Michael Kaltz, member  
Tony King, member (*via conference call*)  
Prof Philip Plowden, member  
Jane McCall, member

**In attendance:**

Sir Mike Pitt, Chair, Legal Services Board (items 7 and 8 only)  
Neil Buckley, Chief Executive, Legal Services Board (items 7 and 8 only)  
Nick Hawkins, Chief Executive  
Kathryn Stone OBE, Chief Legal Ombudsman  
Emma Cartwright, Head of Finance (items 1-5 only)  
Simon Tunnicliffe, Head of Operations  
Rob Powell, Director of Corporate Services  
Joshua Jackson, Ombudsman (item 7 only)  
Lee McDonald, Investigator (item 7 only)  
Claire Noon, Investigator (item 7 only)  
Steve Pearson, Senior Ombudsman (item 7 only)  
Rhiannon Walpole, External Affairs Manager (item 9 only)

**Observing:**

Sarah Pickering, Staff Observer (all items except Item 8)  
Rachel Gwilt, Staff Observer (all items except Item 8)

**Apologies:**

Bernard Herdan, member

**Board Secretary:**

Helen White

**Preliminary issues:**

The Board meeting was quorate.

**Item 1 – Welcome and apologies**

1. The Chair welcomed Sarah Pickering and Rachel Gwilt as Staff Observers. He noted that Tony King was joining the meeting via conference call.
2. The Chair reported that he had received apologies from Bernard Herdan, who had submitted a number of points in relation to the Board papers, which would be addressed during the meeting.
3. The Chair noted there were no declarations of interest.

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

4. The minutes of the meeting held on 18 October 2016 were approved as a true and accurate record of the meeting.

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

5. Members noted those items where actions had been completed and those that were included as agenda items.
6. The Head of Finance reported that work was continuing internally to finalise the translation services contract. It was noted this would be sent for approval out of committee before the next OLC Board meeting in January 2017.

##### **ACTION:**

- **The Head of Finance to send the translation services contract to the Chair and Jane McCall for approval out of committee before the next OLC Board in January 2017.**
7. The Chief Executive reported that the business insurance indemnity letter was still awaited. Once received, he would inform Members.

##### **ACTION:**

- **The CEO to inform Members when the business insurance indemnity letter was received.**

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

8. The items presented for information were noted.

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

9. The Chief Executive reported that the results for the People Survey, broken down by business unit, had been received. It was noted that the verbatim comments were still awaited. He reported that initial discussions had been held with the Management Team and that a small staff group had been set up to explore the results.

10. The Chief Executive reported that initial analysis of the results reflected two key messages; that communication had improved and that staff were wary of change. The survey had also highlighted that staff felt that there had not been as much professional development as previously for staff who had not moved roles over the last 12-18 months.
11. Prof Plowden queried whether the IT and telephony issues had surfaced as a cause of concern amongst staff in the People Survey results. The Chief Executive reported that the consensus was that until the IT issues were resolved and the system reliable, there would always be residual unhappiness amongst staff.
12. Discussion took place on the Tailored Review process being undertaken by the MoJ. The Chief Executive reported that there had been 33 responses to the 'call for evidence'. These responses were from a mixture of statutory regulators, private individuals and service providers.
13. It was noted the Tailored Review team would review the call for evidence responses to identify themes and then attend challenge meetings chaired by Sir Theodore Agnew in December. Emerging findings would be presented in January with the final report concluded in February 2017.
14. The Chief Executive reported that feedback from the Tailored Review team had been very complimentary about the way the Legal Ombudsman staff had engaged with them during the process. The Chair confirmed that he too had received positive feedback from MoJ staff involved in the Tailored Review process stating they found their interactions with staff refreshing, open, frank, and honest and evidence based.
15. Discussion took place on the tripartite agreement being produced between the OLC, MoJ and LSB. The Chief Executive reported that the LSB were keen to move forward with its production. The DCS stated that he was now leading on this for the OLC and anticipated a high level draft being completed by the end of December.

### **Chief Legal Ombudsman's Report**

16. The Chief Ombudsman reported that she was working with LSB colleagues to arrange introductory meetings for the new LSB Board members to visit the Legal Ombudsman offices. The Chair requested that once agreed, the dates be circulated to the OLC Board members so they can also attend be given the opportunity to attend the meetings.

#### **ACTION:**

- **The CLO to notify OLC Board Members of the dates once the induction meetings with new LSB Board members were agreed.**

17. Discussion took place on work being undertaken within the organisation to consider the vulnerability of its service users. Prof Plowden raised concern about how this additional support may affect the independence of the organisation.
18. Tony King said that whilst there were not consistent approaches within other ombudsman schemes, the general principle was to 'level the playing field' which could legitimately mean relatively more being done to support vulnerable complainants than others.
19. It was agreed that work would continue internally to develop the proposition by the end of March and that the Equality and Diversity Forum would provide oversight of the work, noting the Board's concern about independence.

**ACTION:**

- **The CLO to ensure the E&D Forum provide oversight of the work being undertaken to consider the vulnerability of its service users.**

20. In parallel, the CLO would investigate whether such schemes were run in other ombudsman organisations and also the view of the Ombudsman Association.

**ACTION:**

- **The CLO to investigate whether such schemes were run in other ombudsman organisations and also the view of the Ombudsman Association.**

21. An update would be provided at the April OLC Board Meeting.

**ACTION:**

- **The CLO to present an update to the April 2017 OLC Board on the work being undertaken to consider the vulnerability of its service users.**

22. Board Members asked that the CLO thank Penny Medlyn for her excellent paper.

23. Discussion took place on the visits and events attended by the CLO. The CLO reported that feedback from both stakeholders and service providers had been very positive.

24. Discussion took place on the relationship management programme. It was noted that the number of organisations contacted had not been as high as initially reported. The OLC Chair requested that the CLO provide an update on the Executive's ambitions on this programme for 2016 and 2017.

**ACTION:**

- **The CLO to provide an update on the Executive's ambitions for the relationship management programme in 2016/17.**

25. Tony King welcomed the relationship management programme and wondered if a parallel activity could be set up for a user group for professional bodies. He stated that this had proven very useful in other organisations. The CLO reported that one of the initiatives she had asked the research team to develop was both a professional complaints panel and a stakeholder panel.
26. The OLC Chair requested that he meet the CLO and Head of Operations in the next few weeks to further discuss the quarterly set of customer satisfaction results.

**ACTION:**

- **The Board Secretary to schedule a meeting for the Chair with the CLO and Head of Operations.**

27. It was agreed that the Head of Operations would provide an update at the January OLC Board on the personal injury thematic undertaken. Prof Plowden queried whether this would be an area where the Legal Ombudsman could release bite size chunk research outputs.

**ACTION:**

- **The Head of Operations to provide an update at the January OLC Board on the personal injury thematic undertaken.**

**Director of Corporate Services Report**

28. The DCS reported that his first five weeks had been very busy and dominated by IT. He reported there had been a significant incident involving telephony which was now resolved. The Executive was monitoring telephony closely.
29. The DCS reported that the end user computing devices, a mixture of both laptops and desktops, were being rolled out at pace across the organisation. User feedback was that the devices were generally working well, and provided improved functionality when using multiple applications. It was noted that Board approval had been received to spend up to a further £40,000 capital on end user devices to increase the pool stock.
30. Discussion took place on the invitation to quote for the infrastructure which had been issued. The DCS reported that the original timetable remained on track.
31. It was noted that the telephony had been split from the infrastructure following advice from MoJ Digital. The two elements would be run sequentially through different frameworks. Bernard Herdan expressed concern about this strategy as it prevented the organisation from putting all the IT services under a single contract. While this was not what we had originally planned, the frameworks precluded us from combining the two and there were benefits of having sequential procurements.

32. It was agreed that Jane McCall, in her role as Board lead on Transformation, would discuss the governance around the 'Modernising LeO' programme with the DCS. Jane would then be the conduit between the Board and Executive and could provide advice and challenge for the programme as it progressed.
33. The Chair reported that he, the CLO and DCS had presented the indicative budget to the LSB in November. The final budget will be approved by the OLC Board in March before being submitted to the LSB Board on 23 March.
34. Discussion took place on the scale of the perceived risks to the availability of capital budget in 2017-18, and the related question of any slippage against 2016-17 planned activity. Jane McCall said that it was important to consider the likelihood and impact of a worst case scenario on next year's plan.
35. Discussion took place on the recruitment activity and the recent, unsuccessful, use of the contingent labour framework. Prof Plowden questioned whether the Executive were developing links with local universities to build a talent pipeline. The DCS reported that one of the priorities for the HR team was to look at workforce planning which would include the employer brand, recruitment pipeline and process.
36. The DCS reported that as SIRO he planned to reconstitute the Security Forum to provide a mechanism for assessing risk and implementing effective assurance and controls.
37. He stated that he planned to bring all his teams together to build a more integrated approach. In December he was holding a Corporate Services catch-up to discuss a vision for corporate services and how the corporate teams can embed the customer service principles in the services they provide to internal customers.

### **Finance Report**

38. Members noted the Finance Report.
39. Michael Kaltz thanked the DCS for the helpful finance commentary. He requested that the DCS remove the percentage variance column in the report.

#### **ACTION:**

- **The DCS to remove the percentage variance column in the Finance Report.**

### **Item 5 – RemCo Update**

40. Caroline Coates, RemCo Member, presented an update from the recent RemCo meeting. She reported that turnover had been discussed in length at the meeting and would continue to be monitored. She reported that long term sickness remained on the radar and would also continue to be reviewed by RemCo.
41. It was noted that the Executive were improving the accessibility of the occupational health reports to enable line managers to better assist their staff.
42. Caroline Coates reported that RemCo had raised concern about recruitment and had asked the Executive to review the routes for recruitment and to test whether the routes currently being used were successful.
43. It was noted that trials had begun for direct candidates via Reed online. Additionally the Executive were introducing a modified hours pilot to create a different labour market. The Head of Operations reported that six investigators had agreed to change their working pattern and would work into the evening (up to 8pm for up to four days per week).
44. The OLC Chair reiterated the RemCo Chairs' view that the Executive should do all it could to obtain a temporary injection of resource.

#### **Item 6 – Publishing Decisions**

45. The CLO updated members on issues which had been identified during sample testing regarding the consistency of the data relating to the publication of ombudsman decisions.
46. She reported that once the issue was identified, she had taken the decision, as detailed in the Scheme of Delegation, that the data for Quarter 1 be temporarily removed from the website, pending a thorough review. It was noted that the data for Quarter 2 had not yet been published.
47. The CLO reported that the issues had occurred due to data being incorrectly extracted from the case management system. Issues had also arisen due to both insufficient staff training.
48. It was noted that the aim was to publish all decision data for 2016/17 in April 2017, following a robust checking and verification process.
49. The OLC Chair reported that the CLO had kept him sighted since the issue had been identified.
50. Jane McCall expressed concern about the situation as it emphasised the continued concern about the broader data integrity relating to both systems and process.

51. Michael Kaltz, ARAC Chair, stated that ARAC had raised concern about data integrity and this was the reason an internal audit had been conducted on performance data. It was noted that the final audit report on this work would be presented at the January ARAC meeting.
52. The OLC Chair stated that ARAC needed to oversee work undertaken by the Executive on the reliability of data across the organisation. This would be timely as the organisation would shortly be putting in place new systems and processes.
53. The Board noted the steps being undertaken to address the issues identified. The CLO was requested to provide an update at the January OLC Board.

**ACTION:**

- **The CLO to provide an update on the publication of decisions at the January OLC Board.**

**Item 7 – Performance Update**

54. The OLC Chair welcomed Sir Mike Pitt and Neil Buckley to the meeting.
55. The CLO reported that the performance update included a report on the outcome of a number of initiatives. She reported good news in both the number of cases closed and the number of ombudsman decisions made. She stated that there would also be an update from the operational team on the success of the triage process.
56. It was noted that for the first time in twelve months, in both October and November, more cases had been closed than accepted. The OLC Chair welcomed the high level of closures (680 compared to a forecast of 650).
57. The CLO reported that November saw a significant increase in the number of informal resolutions reached, which was attributed to the success of the telephony initiatives put in place.
58. The Head of Operations reported that a modified hours pilot was due to start with investigators working evenings to see if this had an impact on closure numbers.
59. Discussion took place on the number of unallocated cases. The figures had been compounded by the number of reallocations which had to take place due to leavers and sickness. It was noted that a focussed programme had been put in place to reduce the number significantly by the end of the quarter.
60. The Head of Operations reported that timeliness for November was expected to be similar to October (43.4%). He stated that ombudsman decisions had increased in November to 261 (against an October figure of 253).



61. The Head of Operations reported that the CMC team was making good progress. It was noted that the firm cited for a Category One publication had now closed which gave the team more clarity on how to progress cases against that firm.
62. It was noted that the Executive had implemented a different approach to recruitment. This was now being done more frequently and in smaller tranches as it was more beneficial to induct and train new starters in smaller numbers.
63. Discussion took place on the recent attempts to source candidates through the Contingent Labour Framework. It was noted that whilst this had not proved successful, the Executive would continue to monitor its use for future recruitment.
64. Jane McCall stated that, whilst the unallocated figure was still too high, the update was really positive and that the initiatives which had been put in place were starting to show results. She noted her concern that the recovery was fragile and not as resilient as it could be.
65. The OLC Chair requested that the CLO provide an update at the January Board on what was being done operationally to address the high number of cases where decisions are sent back to the investigator for further clarification.

**ACTION:**

- **The CLO to provide an update on measures being undertaken to address the high number of 'send backs'.**

66. The Triage Team (Joshua Jackson, Lee McDonald and Claire Noon) and the Senior Ombudsman (Steve Pearson) joined the meeting to provide an update on the success of the Triage initiative.
67. Joshua Jackson reported that the Triage Team had been introduced to address the backlog in the allocation of cases. He stated that once accepted by the Assessment Centre, the team assessed all cases to review case complexity, assess the vulnerability of complainants, identify easy resolution and request tailored evidence.
68. It was noted that since it started, the Triage Team were reviewing 28 cases per day and that each case was currently reviewed within eight or nine days after acceptance by the Assessment Centre, with the aim of this moving to 48 hours after acceptance.
69. Discussion took place on the processes in place to ensure the consistent quality of decisions from the Triage Team. The Head of Operations reported that work would be undertaken in the New Year to ensure speed was not adversely affecting the quality of adjudication.

- 70.** Discussion took place as to why the triage process was not part of the business as usual process. The Head of Operations reported that the Modernising LeO programme would include a full business process review.
- 71.** Mike Pitt questioned whether the 'Hawthorne Effect' may affect the longer term sustainability of the initiative. The CLO stated that due to the intense pressure of the work there would be a six month rotation for members of the Triage Team.
- 72.** The OLC Chair thanked the Triage Team for their presentation. He acknowledged the level of planning which had gone into the initiative and the quality of implementation by all the team involved.
- 73.** Steve Pearson updated members on the work being undertaken in the Ombudsman team to address the backlog. He reported that the team were very busy with the majority of cases awaiting decision were more complex meaning the demands on the team were higher.
- 74.** On behalf of the Board, the OLC Chair thanked Steve Pearson for the quality of his leadership and for the hard work undertaken in recent months by the Ombudsman team.

#### **Item 8 – Legal Services Board Update**

- 75.** The OLC Chair welcomed Sir Mike Pitt and Neil Buckley for their substantive item.
- 76.** Mike Pitt reported that the two organisations had committed to achieving closer working and that both teams were now reviewing the different ways to achieve this aim.
- 77.** He stated that it had been agreed to get the new LSB Board members and longer standing Board members, to visit the Legal Ombudsman offices in Birmingham. This would enable them to meet staff and see the operational process first-hand. He stated that it would be a good opportunity if OLC Board representatives were also able to attend.
- 78.** Discussion took place on how to make greater use of the Legal Ombudsman's data. Mike Pitt noted that the CMA report would likely make recommendations around much higher levels of transparency. He believed the CMA were moving towards more information being published about performance, the efficiencies of service providers, costs and a greater use of comparison websites.
- 79.** Mike Pitt stated that it was clear that there was a wider agenda to drive down cost and enable consumers to have greater access to legal services. With this in mind, he suggested that it would be worthwhile for members of both

the LSB and OLC Boards to work to think about the strategy for getting that data out into the wider community.

80. Mike Pitt suggested a joint working group be set up with representatives from both the LSB and OLC Boards to discuss what information the consumer needed to make an informed decision and review how existing Legal Ombudsman data could supplement other information available. The OLC Chair welcomed this recommendation and agreed to seek volunteers for this work.

**ACTION:**

- **The Board Secretary to seek volunteers from the OLC Board to work with LSB Board colleagues to consider what information the consumer needed to make an informed decision and how existing Legal Ombudsman data could supplement other information available.**
81. Mike Pitt stated that with this aim of the wider publication of data, whether the OLC Board had considered the question of the publication of Board papers. The OLC Chair responded that the process for the publication of OLC minutes was being finalised. He stated that the OLC were unlikely to retrospectively publish previous Board papers but the publication of future Board papers could be considered as part of the wider improving governance agenda.
82. Discussion took place on the Section 120/121 requirements. The OLC Chair invited the LSB Chair to reflect on the content of the performance discussion in the previous item as this highlighted the depth of understanding and ‘grip’ at Board level on the operational performance of the organisation.
83. Mike Pitt responded that he found the presentation by the Triage Team inspirational; delivered by energised and committed staff. He stated that he believed it was just a matter of time before all the work being undertaken internally was reflected in the performance graphs and data provided to the LSB and that, as soon as he saw evidence of sustained performance improvement, he would invite his Board to withdraw the S120 requirement.
84. Neil Buckley stated that both organisations had been subject to the MoJ Tailored Review process and had both shared their submissions on the ‘call for evidence’. He reiterated the LSB’s view that regulation needed to be independent of the Government and that the LSB had committed to continuous improvement. He stated that he would welcome any thoughts OLC colleagues may have on further improvements.
85. Neil Buckley reported that the LSB consider that the LSCP provide vital input to both regulators and the LSB as well as providing a voice for consumers.
86. He stated that the LSB and OLC had a challenging relationship due to confusion around responsibilities and accountabilities which gave rise to risk.

He stated that legislation could be put in place to resolve this. He reiterated that the LSB was moving forward with the operating protocol which would form a platform to make the relationship work for all three parties (LSB, OLC and MoJ).

- 87. Neil Buckley reported that the LSB Business Plan had been published with the CMA report due to be published shortly. This would reinforce the importance of transparency in the sector.
- 88. Neil Buckley stated the final piece of work the LSB does was to agree rule changes. He noted that this coming year would see the OLC scheme rules change.
- 89. The OLC Chair updated Mike Pitt and Neil Buckley on the earlier agenda item on the publication of ombudsman decisions and the decision taken to temporarily remove the data whilst it was verified.
- 90. The OLC Chair stated that the Legal Ombudsman would respond to the LSB's business plan consultation.
- 91. On behalf of the OLC Board, the OLC Chair thanked Mike Pitt and Neil Buckley for their informative update.

## **Item 9 – Strategy Update**

- 92. Rhiannon Walpole joined the meeting for the Strategy Update discussion.
- 93. The DCS updated members on work being undertaken by the Executive to develop the three year strategy and business plan. He stated that a half day workshop was to be held as part of the January OLC Board meeting with a stakeholder consultation event planned for the end of February. The final revision of the Strategy would then be presented at the March OLC Board before being submitted to the LSB Board in late March alongside our request for approval of the 2017-18 budget.
- 94. In order to frame the debate at the strategy session in January, the DCS requested Board member feedback on the format, look and feel of the draft strategy document.
- 95. It was noted that the CMA report would be published before the January OLC Board meeting and would be a key document for Board review in advance. It was agreed that the External Affairs Manager would circulate the CMA report once released with a summary of the key findings.

### **ACTION:**

- **The External Affairs Manager to circulate the CMA report when available, together with a summary of the key findings.**

96. The OLC Chair requested that before the January Board meeting, the CEO seek further clarity on the likely legislative timescale for the change of CMC regulation.

**ACTION:**

- **The CEO to seek further clarity on the likely legislative timescale for the change of CMC regulation.**

97. Discussion took place on the plans for a prelaunch of the draft strategy for staff. It was noted that this would take place at the all staff event planned for February 2017.

98. The OLC Chair thanked the DCS for the draft document and agreed it was a good start and would enable further detailed discussion at the January strategy session.

99. It was noted the consultation document would be discussed at the January OLC Board with the final version being completed in March.

100. It was agreed that the DCS would ask colleagues who had not previously read the document, to review it to ensure it was clear.

**ACTION:**

- **The Head of Service to provide an update on the initiatives to improve performance, the impact being made and next steps at the next meeting.**

**Item 10 – Governance Documentation**

101. Discussion took place on the Scheme of Delegation which had been reviewed and updated to ensure it was consistent with the Operational Framework, the financial delegations from the MoJ and the reinstatement of the organisation's Accounting Officer status.

102. It was noted that the Executive proposed to put in place specific financial delegations to individual budget managers to sit beneath the scheme of delegation.

103. It was agreed that the OLC Board approve the Scheme of Delegation and financial delegations. The DCS would ensure the revised documents were published on the internal and external websites.

**ACTION:**

- **The Director of Corporate Services to publish the updated Scheme of Delegation.**
- **The Director of Corporate Services to issue financial delegations to individual budget managers.**

**104.** Discussion took place on the review conducted of the OLC Operating Framework and OLC Rules of Procedure.

**105.** It was agreed that the Operating Framework and Rules of Procedure would be amended to take into account the Board feedback with final approval completed by correspondence within the next few weeks.

**ACTION:**

- **The Board Secretary to amend the Operating Framework and Rules of Procedure as agreed and circulate to Board Members for final approval via correspondence.**

**106.** Discussion took place on the review of progress against the governance review action plan. It was noted that the Board had agreed to delegate to the OLC Chair and Chairs of ARAC and RemCo the final signing off on business as usual items. The OLC Chair reported that the sub-group had been regularly monitoring progress. It was agreed that the Action Plan would now move into business as usual.

**107.** The OLC Chair stated that he understood the Tailored Review report would reference the Review of Governance Action Plan.

**Item 11 – Any Other Business**

**108.** Caroline Coates queried whether the organisation had a programme of secondments for staff with service providers as this would enable better communication and the raising of the organisation's profile externally. Concern was raised about whether this could be viewed as detrimental to the organisation's independence.

**109.** The CLO reported that there were not sufficient staff to allow such a programme at the present time but this was something that could be considered at a future point to give a very different insight from the service providers' perspective. It was agreed that as it was a staff development issue, RemCo would provide oversight as this suggestion progressed.

**110.** No other business was raised. The Chair declared the meeting closed.

**Next meeting**

**111.** The next OLC meeting would be held on 25 January 2017 in Birmingham.