

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

Monday 28 January 2021: 10:40 – 15:40, by video call

<p>Present: Elisabeth Davies, Chair Lis Bellamy Rod Bulmer Annette Lovell Jane Martin Hari Punchihewa (items 1-14)</p> <p>Apologies: Rebecca Hilsenrath</p> <p>Board Secretary Kay Kershaw</p>	<p>In attendance: Paul McFadden, Chief Ombudsman Sandra Strinati, Chief Operating Officer Mariette Hughes, Head of Impact, Service Policy and External Affairs Steve Pearson, Head of Complex Casework and Deputy Chief Ombudsman Michael Letters, Head of Finance Samantha Argyle, Head Ombudsman (item 9) Petrina Hoggan, Head of Organisational Design and People Strategy (item 10) Laura Stroppolo, Business Performance Manager (item 12) Alex Moore, External Affairs Team Leader (item 14)</p>
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Preliminary issues:

The Board meeting was quorate.

Board Members gave consent for the meeting to be recorded for the purpose of minutes.

Item 1 – Welcome, apologies and declarations of interest

1. The Chair welcomed attendees to the meeting.
2. Apologies were noted from Rebecca Hilsenrath who had temporarily stepped aside from the OLC Board duties.
3. There were no declarations of interest reported.

Item 2 – Previous Minutes

4. The minutes of the OLC Board meeting held on 26 October 2020 were **approved** for accuracy and **approved** for publication.

5. The minutes of the ARAC meetings held on 15 May 2020 and 29 June 2020 were approved for publication.
6. The minutes of the RemCo meeting held on 7 September 2020 were approved for publication.

ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 26 October 2020, the minutes of the ARAC meeting held on 15 May 2020 and 29 June 2020 and the minutes of the RemCo meeting held on 7 September 2020.

Item 3 – Matters arising and outstanding actions from previous meetings

7. The Chair reported that the LSB and MoJ would no longer be observing OLC Board meetings.
8. The Chair reported on positive feedback received from the MoJ and LSB following the review the commonly agreed data set.
9. The Chair reported that, in Rebecca Hilsenrath's absence, Rod Bulmer had been co-opted to the Audit and Risk Assurance Committee on a temporary basis to ensure the quoracy of the Committee.
10. The LSB had re-appointed Jane Martin to the OLC Board for a further term of office until 30 April 2024.
11. The LSB had re-appointed Annette Lovell to the OLC Board for a further term of office until 28 February 2023.
12. The Board **noted** the following update on action 11, para 85 arising from the October Board meeting: An email had been issued to the Chair of ARAC on 21 January providing background information and an explanation of the distinction between customers satisfied with outcome and customers dissatisfied with outcome. This action is now completed.

Item 4 – Executive report

13. The Chief Ombudsman (CO) reported on the key areas of progress and risk set out in the Executive report, drawing the Board's attention to the following points:
 - The progress made on developing the 2021/22 Budget and Business Plan; this was now being developed with the full involvement of the CO and the Chief Operating Officer (COO) and with consideration to the feedback provided by stakeholders following consultation.
 - The challenges of responding to the latest national lockdown, the implications on performance and productivity and the steps being taken to mitigate the risks.
 - The staff engagement activity that had taken place since the beginning of the year, which had included an all staff briefing, engagement with staff networks and individual members of staff. The CO and COO had found the initial feedback from staff to be insightful and it had demonstrated their deep commitment to the organisation.
 - The consideration being given to an appropriate senior structure following the departure of the Head of Governance and Strategy and the imminent departure of the Head of Impact, Service Policy and External Affairs.

- The consideration being given to succession planning in middle management.
14. The Board was pleased with the progress that had been made in the first weeks of the CO and COO's tenure, was supportive of the work being undertaken to ensure that there was an appropriate management structure in place and welcomed the efforts being made on staff engagement.
15. The Board **noted** the Executive report.

Item 5 – Finance report

16. The Head of Finance reported on the key issues set out in the Finance report, drawing the Board's attention to the following points:
- Improvements had been made in developing the 2021/22 Budget; this had included further collaboration amongst the Executive and key staff and the introduction of detailed checks, challenges and reviews to ensure the accuracy of data and collective ownership.
 - A revenue underspend of £19,000 had been reported at the end of December along with a staffing underspend because of delays in recruitment and the effects of attrition. This was being closely monitored and alternative ways to spend the money was being considered by the Executive.
 - Case fee income remained a concern and was forecast to be £335,000 under budget, reflecting operational performance throughout the year.
 - A £98,000 overspend on IT had been reported and work was being undertaken to improve the cost control of IT expenditure.
 - Interest received on cash balances had reduced due to changes in base rates introduced in March 2020.
 - A depreciation underspend of £84,000 had been reported. Adjustment had been made to the useful life of the CMS system from 3 to 5 years following a recommendation by External Auditors.
 - LeO remained focussed on spending the capital programme and since December orders had been placed for £104,000 and an additional £40,000 of orders were to be placed in the next week.
17. The ARAC Chair raised concerns about the extent of budgetary changes in, IT spend, capital spend, depreciation, interest and case fee income that had taken place in the last three months since the additional budget had been sought and concerns about the budgetary processes that had been followed when preparing the revised budget and forecast.
18. In discussion, the Head of Finance reminded the Board that the additional budget had been sought for specific items (staffing, recruitment to senior posts and to address historic budgetary errors). The issues around income, IT spend, capital spend, depreciation and interest had been known at the time, but a decision had been made not to fully adjust the budget because some of the issues could be mitigated against. A small amount of income was received from sub-letting, but the remaining income was derived from case fees or the levy. The amount of income from case fees had a direct correlation to performance and where there was reduced case fee income, the levy would need to increase.

19. Following discussion, it was agreed that the Head of Finance and CO, with support from the Chair of ARAC would reflect further on the feedback provided about the extent of budgetary changes that had been made since the additional budget had been sought and the budgetary processes that had since been followed.

ACTION: The Head of Finance and CO, with support from the Chair of ARAC, to reflect further on the feedback provided about the extent of budgetary changes that had been made since the additional budget had been sought and the budgetary processes that had since been followed.

20. The Chair requested a briefing paper on the background to case fee income and the levy.

ACTION: The Head of Finance to provide the Board with a background briefing paper on case fee income and case fee levy.

21. Considering the underspend on staffing, the Board was interested to understand the extent that Pool Ombudsmen were being utilised. The Executive advised that, since the budget for Pool Ombudsmen had been reduced, many had found alternative employment. A small number of Pool Ombudsmen remained available and were being offered work but a decision had been made to utilise the underspend on staffing by offering overtime to in-house Ombudsmen with capacity to work extra hours, as this was deemed to be better value for money.

22. The Board **noted** the update on finance.

Item 6 – ARAC update

23. The Chair of ARAC updated the Board on the key discussions that had taken place at the ARAC meeting on 23 November 2020, this included:

- Re-shaping the risk reporting to ensure a greater focus on the wider strategic risks and improvement to the risk scoring.
- Making better use of the expertise provided by Internal and External Auditors to improve ways of working and to ensure that best practice was followed.
- Reviewing ARAC's Terms of Reference (ToR). A revised ToR is to be presented to Board in March and would include responsibility for providing the Board with assurance on the budget process.
- Requesting an interim risk assurance report; this was circulated to the full Board in December.

24. In discussion, the Chair of RemCo suggested that to better understand and mitigate strategic risk SO5 ARAC should consider the issues that underpinned staff engagement.

25. Recognising the inter-play between Committees, the Chair recommended that consideration was given to introducing a light touch agreement between Committees and Chairs to ensure a better understanding of risks and key issues.

ACTION: The Board Secretary and Chair to consider developing a light touch agreement between Chairs and Committees to ensure a greater understanding of the key risks and issues.

26. The Chair sought clarity on when the Board last considered its risk appetite.

ACTION: The Board Secretary to report back to the Chair on when the OLC Board last considered its risk appetite.

27. COO updated the Board on the staff engagement that had taken place since she and the new CO joined the organisation.
28. Board **noted** the ARAC update.

Item 7 – Performance report and update on Covid-19 planning and the People Plan

29. The COO and Head of Impact, Service Policy and External Affairs presented the Performance Report, which incorporated an update on Covid-19 planning and the People Plan.
30. The impact of the pandemic continued to be felt across the organisation. Following the announcement of another lockdown special leave had been re-introduced to support staff in balancing their caring responsibilities and workload. All staff were being impacted by Covid in some way and an overall productive loss of 33% was reported; this was in line with other Ombudsman services. The Performance and Quality Task and Finish Group had considered the loss of productivity due to Covid when it met to review the performance forecast and assumptions as part of the Budget and Business Plan assurance process.
31. Initiatives to boost performance recovery, which included different ways of dealing with high complexity cases and identifying quick wins in the PAP, were having positive results. Further improvements had been identified and were being assessed for viability. Technical innovation at the front end was progressing well, and it was hoped that some of the work would go live in the next couple of weeks.
32. Performance in November improved in line with the trajectory. December's performance was sub-optimal, but the overall drop in output remained consistent with anticipated seasonal fluctuations.
33. January's closures to date were 403 against an end of month target of 443. This was 16 closures short of what was achieved on the same day in January 2020, pre-Covid.
34. There had been a 25% loss of staffing resource at the front end of the business because of Covid related absences. To manage contact demand, which had remained consistent during the pandemic at around 9000 contacts per month, it had been necessary to redeploy staff from other roles to cover absent call handlers. The knock-on implications of this has led to an increased backlog in GET of 22 days in January. Customer expectations were being managed and to mitigate demand risks customers were being redirected to the website.
35. The Pre-Assessment Pool was standing at 4484.
36. The average case closures per investigator was 4; the highest it had been since March 2020, pre-Covid, but the variance in performance and productive output across the Investigator cohort remained a concern.
37. The Team Leader cohort had been significantly impacted by caring responsibilities due to Covid. Their reduced availability to manage and support their teams has compounded the issue of Investigator productivity.

38. To mitigate this, Operations Managers had stepped into the Team Leader role but, in doing so, has left them little time to focus on the strategic developments required to address the wider issues around performance and productivity.
39. The Board thanked the COO for her clear explanation of how Covid was affecting performance management and improvement and what needed to be done to address the issues. Despite the performance differential in the Investigator cohort, the Board had been pleased to see that performance had remained broadly in line with forecast and that it remained comparable to the same time last year, before the pandemic and the challenges that it had presented.
40. The Chair of RemCo reported on the People Plan, stating that whilst it was a good project methodology, it had begun to broaden out into a HR plan and needed to re-gain its original focus as a key corporate document.
41. Board Members recommended that the People Plan was simplified, and tactical changes were made that would deliver quick wins to address some of the people issues and improve performance. In response, the COO confirmed that the People Plan was being reviewed and the priorities reshaped and better focussed. A revised People Plan would be presented to RemCo at its next meeting on 11 February.
42. The Chair of RemCo requested that reference was made to the People Plan in the executive summary of future Performance reports.

ACTION: The COO to ensure that reference was made to the People Plan in the executive summary of future Performance reports.

43. The Board **noted** the performance report and update on Covid-19 planning and the People Plan.

Item 8 – RemCo update

44. The Chair of RemCo updated the Board on the key items discussed at the RemCo meeting on 18 November, which, in addition to the People Plan, included:
 - An early draft of the People Performance Report; this would be presented alongside the People Plan at all future meetings and would be aligned to corporate objectives.
 - The 2020/21 appraisal process, which is to be a light touch process. RemCo had requested further clarification on accountabilities for the appraisal process.
45. The Board **noted** the RemCo update.

Item 9 – Update on Service Complaint Adjudicator tendering process

46. The Board received an update on the Service Complaint Adjudicator (SCA) tendering process, noting the number of applications received to date which, whilst low, was comparable to the number of applications received in previous SCA tendering processes.
47. The Board reflected on the low response rate and whether it should be a matter for concern. By way of comparison, the Board was advised of response rates to similar recruitment / tendering processes at other Ombudsman schemes. In discussion, it was suggested that

remuneration and the limited pool of experience were factors that underpinned response rates to this kind of role.

48. Suggestions on alternative approaches to recruiting a SCA were put forward for future consideration.
49. The Board **noted** the update on the SCA tendering process.

Item 10 – Civil Service Survey Results

50. The Head of Organisational Design and People Strategy reported on the results of the 2020 Civil Service Survey, advising that:
 - there had been an 82% response rate which had been significantly higher than previous years.
 - An increase in positive responses across all nine themes covered by the survey had been seen.
 - Overall engagement scores had increased by 55%.
 - A positive reduction in the number of staff that had felt discriminated against and harassed had been seen and there had been a positive reduction in the PERMA index and Proxy Stress index scores.
51. Whilst the survey results were encouraging, the Executive stressed that there was no complacency and acknowledged that further work was required, particularly in respect of improving leadership and managing change.
52. In addition to sharing the survey results with Staff Council and RemCo, the Executive would be undertaking a detailed analysis of the results (including analysis of the verbatim comments) and then follow up engagement with staff network groups and departments across the organisation would take place to begin action planning to address the issues identified. Action plans were to be incorporated into the People Plan.
53. The Board welcomed the improved 2020 survey results, noting their value in providing a benchmark against other ALBs.
54. There was some concern that the results may have been distorted due to the easing of performance management during 2020 to support staff during the initial phases of the pandemic.
55. Recognising that the survey results represented a snapshot in time and considering that performance management had now been re-introduced and individuals were being held to account for their performance, the COO acknowledged that staff perceptions may change in 2021. The Executive would be closely monitoring this by engaging with staff and undertaking pulse surveys throughout the year and mitigating action would be taken to address any risks.
56. The Board **noted** the update on the Civil Service Survey Results.

Item 11 – The Covid Plan and confidence levels in the assumptions that inform the Business Plan for 2021/22

57. At the October 2020 Board meeting, the Executive was asked to produce a Covid-19 plan, setting out proposals for mitigating the unknown impact of the pandemic on supply and demand for the scheme.
58. The Head of Impact, Service Policy and External Affairs explained that since then, some of this work had been superseded by work that had been undertaken by the Performance and Quality Task and Finish Group (the Group). As a consequence of this, the focus of the Covid-19 Plan had changed and the Board was presented with a document providing a summary, for assurance purposes, of the strategic approach that had been taken by the Executive during the pandemic. This document also highlighted some of the long-term decisions and questions for the new CO to consider in the context of future business planning.
59. Considering that the Board received regular Covid updates as part of Performance updates and through the work of the Performance and Quality Task and Finish Group, (P and Q Group) the Board was invited to notify the Executive of anything more they would like to see covered in the Covid -19 Plan or any further assurance they may require on the long-term questions and decisions that the CO would need to make.
- ACTION: Board Members to notify the Executive of anything more they would like to see covered in the Covid-19 Plan or any further assurance they may require on the long-term questions and decisions that the CO would need to make.**
60. The Chair of the P and Q Group reported on the work undertaken by the Group over the last 7 months, this had included:
- A full review of the forecasting model which, despite being a static model, was able to forecast against different resource profiles.
 - A full review of the demand and staffing assumptions based on various Covid-19 scenarios.
 - A review of the impact of two key drivers of performance: individual productivity and the quantum of trained and productive investigators.
 - A full appraisal of the impact of the third lockdown, taking into consideration all key assumptions that would have a significant impact on performance outcome at the end of the current financial year.
61. Having completed this work, the Chair of the P and Q Group reported that the Group had been confident that the forecasting model was robust and accurate, that the performance outcome at the end of 2020/21 would broadly be in line with forecast and that there would be no sizeable gap at the start of the new financial year.
62. Consideration had also been given to each of the assumptions and what they meant in terms of future performance. This had taken into account a variety of Covid scenarios and a full appraisal of the third lockdown, including the best, worst, and expected performance outcome. Recognising that there would be some Covid uncertainty for the foreseeable future, the Chair of the P and Q Group reported that, the Group was able to provide assurance to the Board on the forecasting and assumptions that underpinned the 2021/22 draft Budget and Business Plan.

63. In discussion about the flexibility of the forecasting model, the the Chair confirmed that there was provision in 2021/22 draft budget for funds to develop the current static forecasting model into a dynamic model.
64. The Board **noted the Covid Plan and confidence levels in the assumptions that inform the Business Plan for 2021/22.**

Item 12 – Draft 2021/22 Budget and Business Plan

65. Since joining the organisation in January, the CO and COO had re-assessed the 2021/22 budget and business plan. A revised position was presented to the Board for consideration; this reflected the views of the new CO and COO and the feedback from stakeholders following the recent consultation. The revised position aimed to achieve stability and improvements in the customer experience in 2021/22, to build confidence in LeO's ability to deliver sustained improvement and to better make the case for future investment.
66. It was proposed that the three business plan priorities, previously considered by the Board in October, should be retained and that performance stabilisation would be delivered in year one through a reduced level of recruitment and investment. Improvements in productivity and performance would be made by reviewing operational processes, making the most of existing resource and through better use of innovation. In response to suggestions from stakeholders, an Advisory Group would be established to consider proposed approaches to LeO ways of working and there would be enhanced openness and transparency through feedback and accountability to the sector.
67. The CO alerted the Board to a degree of uncertainty regarding the expected position at the end of year 2 due to the challenges in being able to quantify and test the innovation and wider improvement work at this early stage. It was important that we were transparent about the challenges of doing so, not overpromising but equally clearly indicating confidence that we could do more once these initiatives had been developed further.
68. Having reviewed the revised budget and business plan Board Members were broadly supportive of the proposed approach, including the multi-year approach and with the proposal for reduced investment and reduced recruitment.
69. The Board provided the following feedback on areas for further consideration and clarification before the Budget and Business Plan was presented to the Board for further review on 12 February:
- Provide more clarity on what stability looks like in priority 1.
 - Give further consideration to the proportionality between investment and performance.
 - Emphasise the urgency and ambition to achieve improved performance.
 - Consider and risks associated with reduced recruitment and potential attrition.
 - Strengthen the narrative on priority 2 by setting out more detail and quantify the benefits of innovation.
 - Provide clarity on the impact of innovation and development – priority 2.

- Provide clarity on whether the increased budget in year two would be conditional on achieving improvements in year 1.
- Consider the link between priority 1 and priority 2 and how it should be articulated, given some of the uncertainties that cannot be quantified.
- Consider the quick wins and provide more clarity on their impact – priority 3.
- Consider the impact of Advisory Group. Clarify who will be involved – complainants / legal sector / wider stakeholders. Ensure that they do not detract from the impartiality of the Ombudsman.
- Consider preparing a base budget and a growth / impact budget so that stakeholders could compare what would be achieved with each budget; the use of the reverse budgeting approach was also recommended.

70. The Executive thanked the Board for the feedback. Any changes to the Business Plan would also be reflected in the LSB Budget Acceptance Criteria.

71. The Executive **noted** the Board's request to receive the updated Budget and Business Plan in good time ahead of the next Board meeting on 12 February.

ACTION: The Executive to update the Budget and Business Plan based on the Board's feedback and issue the revised document in good time ahead of the next Board meeting on 12 February.

72. Further to a recommendation from the 2020 Budget Learning Review, the Chair of ARAC put forward two proposals for the Board to consider on how ARAC could provide assurance to the Board on the budget and planning process in the future. Option 1 focussed on providing assurance on the process and option 2 focussed on providing assurance on the accuracy of the numbers and overall robustness of the budget. Following discussion, the Board **agreed** that the option 1 should be adopted. ARAC's Terms of Reference would be updated to reflect this.

ACTION: The Chair of ARAC and Head of Complex Casework and Deputy Chief Ombudsman to update the ARAC Terms of Reference to reflect the Board's approval of option 1 and present the revised ToRs to ARAC for review at its meeting on 11 March.

73. The Chair requested an update on the position regarding the use of cash reserves.

ACTION: The Head of Finance to contact the MoJ for an update on the position regarding LeO's cash reserves and report back to the Board.

Item 13 – Understanding the customer journey

74. This item was actively deferred for discussion at a future meeting due to the need to devote sufficient time to the previous agenda item.

ACTION: The Chair to liaise with the Board Secretary on rescheduling this agenda item.

Item 14 – The OLC response to the LSB Business Plan consultation

75. The Chair **noted** feedback from Board Members, that had been provided out of committee, on the draft OLC response to the LSB Business Plan consultation.
76. Acknowledging that further drafting was required, the Board **agreed** that the Chair would take an action to approve the OLC's final consultation response before it was submitted to the LSB.

ACTION: The Chair to approve the revised OLC response to the LSB's Business Plan consultation.

Item 15 – Transparency reports

77. The Board reviewed and agreed the quarter three transparency reports which included Board Member, Ombudsman and Senior Manager Register of Interests and **approved** them for publication.

ACTION: Board Secretary to Publish the Board Member, Ombudsman and Senior Manager register of interests.

78. The Board **noted** that there had been no further entries to the Gifts and Hospitality register since it had last been presented to the Board on the 27 July 2020. The last entry to the register was dated 16th of June 2020.
79. The Board **noted** that the Board Member and Senior Manager Expenses Report was not available. The information required to collate the report was held in LeO's office which, due to the pandemic, was not being accessed by all staff. The report will be presented to the Board for review at the earliest possible opportunity.

Item 16 – Board Paper Redactions and Non-Disclosure report

80. The Board reviewed a paper setting out the redactions and items for non-disclosure proposed in respect of the January Board papers.
81. The Board **approved** the items identified for redaction and non-disclosure.

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

Item 17 – Board Effectiveness

82. In line with the Board's commitment to improving Board effectiveness, Jane Martin reflected on the meeting and made the following points:
 - The discussion on agenda item 7 had been focussed and went well.
 - The Board paper for agenda item 10 had been clear and succinct.
 - The agenda had been too ambitious.

- More clarity was required in the Executive summaries of the Board papers to ensure that the main points and questions that the Board Members are being asked to consider were highlighted and that Board Members better understood what response was required of them.
- Because of the length and late issue of the Board paper for agenda item 12, some Members had insufficient time to fully digest the information provided; this may have had an impact on their ability to contribute to the discussion.
- The Board had been assured by the CO and COO's understanding of the main issues facing the organisation. It was clear that they had a good grip on the budget and business planning process, and this gave the Board confidence.

Item 18 – Any other business

- 83.** The COO thanked Board Members for their feedback and offered to have follow up conversations if further clarity on any of the items discussed was required.
- 84.** The CO thanked the Board for the constructive feedback on the items discussed at the meeting.
- 85.** The Chair thanked the Board Secretary and the Executive for their hard work and support and congratulated the Board Secretary on her Celebrating Success: Reward and Recognition award.
- 86.** The Chair congratulated the Head of Impact, Service Policy and External Affairs on her appointment as Customer Services Ombudsman for the Armed Services and thanked her for all her hard work and commitment to the OLC and LeO and wished her well for the future.