

## **Minutes of the Eighty- Sixth Meeting of the Office for Legal Complaints (OLC)**

**Wednesday 14 March 2018**

**10:00 – 12:50**

**Legal Ombudsman, Birmingham**

### **Present:**

Wanda Goldwag, Chair

Bernard Herdan

Rebecca Hilsenrath

Michael Kaltz

Lis Bellamy

Annette Lovell

### **Apologies:**

Caroline Coates

### **Board Secretary:**

Kay Kershaw

### **In attendance:**

Rob Powell, Chief Executive

Rebecca Marsh, Chief Ombudsman

Simon Tunnicliffe, Director of Operations

Steve Pearson, Senior Ombudsman (items 4-10)

Katie Ayre, staff observer (present for all items except item 7)

Mandeep Kaur Gandham, staff observer, (present for all items except item 7)

### **Preliminary issues:**

The Board meeting was quorate.

Annette Lovell declared that she had a pre-existing professional relationship with the Financial Ombudsman Service (FoS). The Board agreed that she could remain present for all discussions relating to the FoS at this meeting.

### **Item 1 – Welcome and apologies**

1. The Chair welcomed attendees to the meeting and extended a warm welcome to new Board members, Annette Lovell and Lis Bellamy.
2. Apologies were noted.
3. The Chair reported that Caroline Coates' term of office would end on 31 March. The Chair and Board members formally recorded their thanks to Caroline Coates for the sterling work that she had done representing the legal profession as a member of the OLC Board and RemCo.
4. Staff observers were reminded to observe the confidentiality of discussions held during the meeting where appropriate.

## Item 2 – Minutes of the previous meeting

5. The minutes of the OLC meeting held on 29 January 2018 were **accepted** as an accurate record and were **approved** for publication.

**ACTION: Board Secretary to publish the minutes of the OLC Board meeting held on 29 January 2018.**

## Item 3 - Matters arising and outstanding action points

6. The Board **agreed** that Annette Lovell would join ARAC and Lis Bellamy would join RemCo. Jane Martin would join RemCo upon commencement of her term of office May 2018.

7. The Board formally **ratified** a decision made out of Committee by Wanda Goldwag and Jane McCall to increase the CMS capital budget from [REDACTED]

[REDACTED] This decision had been made in line with their delegated authority to approve urgent expenditure between Board meetings. It was noted that the MoJ had already approved this increase in project costs. **Fol exempt s.43 (2).**

8. Following discussion, the Board **recommended** that, following Jane McCall's departure from the OLC Board, responsibility for approval of urgent expenditure outside of Committee, should be passed to Rebecca Hilsenrath.
9. It was **agreed** that the CEO would update the Scheme of Delegation to confirm this update to the delegated authority and, at the request of the Chair of ARAC, would also set out the financial limits for this delegation.

**ACTION: The CEO to update the Scheme of Delegations to include delegated authority to approve urgent expenditure outside of Committee, including the financial limits for this delegation.**

10. In discussion, Bernard Herdan noted his opinion that the previous action from the January Board meeting (reference 8 para 45) was not fully completed. The CEO explained that a basic demand forecasting model had been produced and had informed the budget proposals for 2018-19. It was therefore **agreed** that the model to forecast future external demand and case intake should be further developed and periodically reported to Board. Initially, this would consider demand trends among other Ombudsmen schemes.

**ACTION: The Chief Ombudsman to report to Board on the tool to forecast future external demand and case intake through analysis of demand trends among other ombudsmen.**

11. Members noted the update on the actions from previous meetings.

## Item 4 – Standing reports

### Chief Executive's Report

12. The CEO reported on the progress made on Modernising LeO, noting that a significant number of milestones had now been achieved in addition to progress with

the new Case Management System (CMS), including the successful roll out of Skype telephony and the new contact centre software, the introduction of the new flexible working policy, a positive Gateway review on the programme and changes to the configuration of office space to enable the [REDACTED] to relocate on schedule. **Fol exempt s.43 (2) (c)**

13. End to end user acceptance testing of the new case management system (CMS) was progressing well and the CMS was on track to be signed off as production ready later in the month, ready for a rollout in April. The precise date was still being considered. All new cases received in the new financial year would be entered into the new CMS.
14. The old and new CMS would be run in parallel initially as existing cases on the old CMS are completed. A decision would be made later in the year about whether and when to transfer cases from the old CMS into the new CMS.
15. The Board noted the update on legal matters that had been issued separately under legal privilege. The CEO provided an update on key legal cases and the Chief Ombudsman updated the Board on changes being introduced to mitigate risks around Judicial Review.
16. The Board noted that the Finance team was now fully staffed. Payroll was due to be outsourced in the Summer of 2018 to improve resilience and enable the team to focus on other areas of work, such as debt collection.
17. The CEO reported on the positive staff feedback following the mental health training. Staff observer, Katie Ayre, reported that the training was already having a positive impact on her work.
18. The CEO reported on one significant item of HR casework, and agreed to keep the OLC informed of progress.
19. The Board **noted** the issues highlighted in the CEO's report.

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

20. The Chief Ombudsman presented a report setting out her early findings, her priorities and the actions commenced in response to those findings.
21. The Board noted the actions being taken by the Chief Ombudsman to reshape the operational senior team and the role, function and priorities for the group of staff formerly referred to as the Office of the Chief Legal Ombudsman.
22. The Chief Ombudsman reported on the progress being made by the Pool Ombudsmen who were now making decisions and the recent successful recruitment for level 1 Ombudsmen.
23. A discussion took place about the Dispatches television programme featuring an undercover investigation of the Financial Ombudsman Service (FoS) and its implications for LeO and the wider Ombudsman landscape.
24. The Board **noted** the Chief Ombudsman's report.

## 25. Performance Report

26. The Chief Ombudsman presented a report on performance during January and February 2018.
27. The Board were concerned about the deteriorating performance against KPIs noting an increase in the number of unallocated cases, an increase in work in progress, a decline in timeliness and case closures and a decrease in the number of Ombudsman decisions made.
28. A detailed discussion took place around performance.
29. The Executive explained that performance had been impacted by the combined impact of staff committed to the final stage of the Modernising LeO programme, where they had been involved in user acceptance testing, end to end testing and training on the new CMS. Operational variances and the time lag before staff new in role became fully productive had also had a negative impact on performance. The volume and age of work in progress and the number of unallocated cases were making it challenging to achieve short-term improvement in timeliness performance, without 'cherry-picking' cases to achieve KPIs.
30. The Executive reported that this drop in performance was not unexpected at this critical time in the Modernisation programme. Work would continue to be progressed in broad date order, which would result in overall 90 day performance continuing to deteriorate in March and beyond until operations stabilise in quarters 3 and 4 of 2018-19.
31. Concerns were raised about why earlier recommendations made by some Board members to over-recruit had not been heeded in light of the time taken for new staff to become fully productive. In response the CEO explained that there had been continuous rolling recruitment and that LeO had offered roles to all who passed the Assessment Centres. However, as Accounting Officer he could not significantly expand the establishment before receiving the Letter of Comfort from the MoJ confirming their expectation of an increased budget for 2018-19, received in January. Intensive recruitment was ongoing with staff working successive Saturdays to run recruitment assessment centres whilst delivering business as usual. Additionally, a strategic partnership was developing between LeO and Birmingham City University and it was hoped that this would impact on recruitment.
32. The Board discussed the viability of recruiting a pool of Investigators and staff to work twilight hours as a way of improving performance. In response the CEO reported that LeO's new flexible working policy already enabled staff to work very much more flexibly, which meant the benefits of a distinct 'twilight shift' would be marginal at best. A second tranche of pool ombudsmen will be inducted, but pool investigators are not a viable mechanism to increase capacity for investigations. The improved IT should remove geography as a factor to employment at LeO and it was hoped that this would also have a positive impact on recruitment.
33. The Board **noted** the report and update on performance.

## Finance Report

34. The CEO presented a paper providing an overview of the financial position at the end of month 10 which included a commentary on the key issues in the management accounts.
35. Following comment from the Board, the CEO agreed to arrange for the Head of Finance to amend the format of the report distinguish more clearly between those aspects of the budget which were ring- fenced and those that are more flexible.

**Action: the Head of Finance to amend the format of the finance report to distinguish more clearly between those aspects of the budget which were ring-fenced and those that are more flexible.**

36. The Board **noted** the contents of the finance report.

## Item 5 – 2018-19 Business plan

37. The CEO presented a paper setting out an updated draft 2018-19 business plan for comment and agreement to delegate approval of the final plan to the OLC Chair, CEO and Chief Ombudsman.
38. The Board noted that the updated business plan aligned with the budget and new KPI proposals and the proposed deliverables were more specific, fewer in number and reflected a more focussed set of annual priorities. The plan also reflected the early priorities of the new Chief Ombudsman, in particular the focus on quality, increasing professional competence and implementing an internal learning and continuous framework.
39. In discussion, the Board recommended that a reference to CMCs should be included in the forward of the Business Plan.

**Action: The CEO to include a reference to CMCs in the forward of the Business Plan.**

40. The Board **noted** the updated draft of the business plan and following discussion **agreed** to delegate final approval of the business plan for publication to the OLC Chair, CEO and Chief Ombudsman.

## Item 6 – KPIs and balanced Scorecard

41. The CEO presented a paper setting out the revised KPI framework and targets for 2018-19.
42. The Board noted that the development of the operational forecasting and resourcing model had informed the development of the proposed timeliness targets and performance improvement trajectory.
43. It was noted that setting timeliness targets for 2018-19 had been challenging due to the transition from the old business process to the new one, the introduction of KPIs by case complexity and the lack of historical data on the new process and case complexity.
44. The Board commented on the proposed KPIs, noting that the targets had been set to stretch the organisation and would need to be monitored closely. The 90 target as

highlighted as particularly stretching and therefore there was an inherent risk associated with it.

45. Following discussion, the Board **approved** the proposed KPI framework and targets for 2018-19.

#### Item 7 – 2018-19 budget

46. The CEO presented a paper setting out the proposed 2018-19 budget for the Board to comment and approve prior to its submission to the LSB Board for consideration and approval at their March Board meeting.
47. The CEO reported that the proposed budget had been maintained at the level on which LeO had consulted and the operational forecasting and capacity model had been used to inform proposals. Assurance of the assumptions and data in the forecasting and capacity model had been undertaken and the budget had been updated to reflect early priorities for improvements recommended by the new Chief Ombudsman.
48. Due to tight timescales for submitting the paper to the LSB after the OLC Board meeting, a draft paper had been shared with the three Chairs on 1 March for comments and feedback.
49. Following discussion, the Board **approved** the 2018-19 budget and **agreed** to delegate the final approval of the paper for submission to the LSB to the Chair.

#### Item 8 – Annual Strategic Risk Workshop

50. The CEO presented a paper setting out the proposed strategic and corporate risks for Board approval and comment.
51. In discussion, the Board noted the paper, but felt that there was insufficient time available at the meeting for a detailed discussion. It was therefore agreed the workshop on strategic risks would be rescheduled for the April Board meeting where more time would be set aside for discussion.

**Action: Board Secretary to add Annual Strategic Risks Workshop to the agenda for the April Board meeting.**

#### Item 9 – OLC Governance

52. The CEO presented a paper proposing minor changes to the Scheme of Delegation, a refresh of the schedule of matters reserved to Board, an update on a meeting with the MoJ and LSB to review the Tripartite Operating Protocol and a proposal to commence publishing OLC Board papers from April 2018.
53. The Board **noted** the proposed changes to the Scheme of Delegation.
54. In discussion the Board were of the view that they implicitly had oversight and responsibility for the OLC and therefore asked for column in the Scheme of Delegation to be amended accordingly. Subject to this minor amendment the Board **approved** the proposed changes to the Scheme of Delegation.
55. Following discussion, the Board **agreed** to the changes set out in the schedule of matters reserved to Board.

56. The CEO reported on a meeting with the MoJ and LSB in February to review the Tripartite Operating Protocol. At the meeting, it was agreed that the protocol was generally working well and the few minor changes identified would be logged and amendments would be made at the three yearly review due in June 2020.
57. In discussion about publishing OLC Board papers, the CEO reported that Board papers were now routinely published across Government, albeit heavily redacted and recommended, in the interests of transparency, that OLC Board papers were routinely published from April 2018.
58. It was **noted** that ARAC and RemCo papers would not be published.
59. Board members raised some initial concern around publishing Board papers and sought assurance that the depth of information currently provided in Board papers would be maintained if they were to be published. Members stressed the need for all necessary information to be provided in Board papers in order to ensure full and meaningful discussions at Board meetings and enable informed decisions to be made.
60. The CEO advised that a protocol for publishing papers would be created. This would set out a process to identify any papers unsuitable for publication and to consider any applicable FoI exemptions and redactions.  
**ACTION: CEO and Board Secretary to set up a protocol for publishing Board papers.**
61. Following discussion, the Board **agreed** to the publication of OLC Board papers subject to the agreement of a publishing criteria and process.

#### Item 11 – AoB

62. Staff observer Katie Ayre reported on her positive experience of the thorough end to end user testing for the new CMS.
63. Staff observers left the meeting.
64. A late paper was submitted to the Board seeking approval of a recommendation made by the Chief Ombudsman to offer Level 1 Ombudsman roles to 9 applicants, subject to the necessary checks and due diligence.
65. The Board noted the recruitment process that had been undertaken and **agreed** that the Chief Ombudsman should make the offer of appointment to the 9 applicants.
66. At the agreement of the Chair, a late paper providing an update on the CMC transfer to the Financial Ombudsman Service (FoS) was tabled for discussion. The contents of which were **noted**.
67. [REDACTED]

68. [Redacted]

69. [Redacted]

70. [Redacted]

[Redacted]

71. [Redacted]

[Redacted]

72. [Redacted]

73. [Redacted]

Fol exempt s.43 (2)