

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

Monday 23 April 2018

10:00 – 16:00

Legal Ombudsman, Birmingham

Present:

Wanda Goldwag, Chair

Bernard Herdan

Rebecca Hilsenrath

Michael Kaltz

Lis Bellamy

Annette Lovell

Board Secretary:

Kay Kershaw

In attendance:

Rob Powell, Chief Executive

Rebecca Marsh, Chief Ombudsman

Claire Evans, Independent Service Complaint
Adjudicator (item 9)

Steve Pearson, Senior Ombudsman (item 13)

Clair Daniel, Senior Ombudsman (item 9)

Penny Medlyn, Operations Manager, CMC,
(item 14)

Elizabeth Smith, staff observer

Nicola Hampton, staff observer

Preliminary issues:

The Board meeting was quorate.

Annette Lovell declared that she was an employee of the Financial Ombudsman Service (FoS). The Board agreed that she could remain present for all discussions relating to FoS at this meeting.

Item 1 – Welcome and apologies

1. The Chair welcomed attendees to the meeting.
2. Staff observers were reminded to observe the confidentiality of discussions held during the meeting where appropriate.

Item 2 – Minutes of the previous meeting

3. The minutes of the OLC meeting held on 14 March 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 14 March 2018.

4. The minutes of the Audit and Risk Assurance Committee (ARAC) meeting held on 28 February 2018 were **approved** for accuracy and were **approved** for publication, subject to the recommended redactions.

ACTION: Board Secretary to publish the minutes of the ARAC meeting held on 28 February 2018.

5. The Board **noted** the minutes of the Category 1 Publication Committee.

Item 3 - Matters arising and outstanding action points

6. Members **noted** the update on the actions from previous meetings.

Item 4 – ARAC update

7. The Chair of ARAC provided a verbal update on the discussions held at the ARAC meeting on 19 April 2018.
9. He reported that good progress had been made in preparation for the introduction of General Data Protection Regulation.
10. The annual assessment of fraud risk had been conducted and was reviewed by the Committee which found the risk to be low with appropriate controls in place to reduce fraud risk.
11. In line with a rolling programme of policy reviews, the Committee reviewed and approved proposed changes to the expenses, gifts and hospitality, procurement, asset management, and whistleblowing policies. Minor amendments to the whistleblowing policy had been approved. The Committee also provided comments on a draft Critical Incident Protocol.
12. A number of Internal Audit reports had concluded on Performance Statistics, the Financial Control Framework and the Modernising LeO Programme. Internal Audit had provided a draft annual audit opinion providing substantial assurance. The Committee had commended this positive result and congratulated Emma Cartwright, Head of Finance.
13. The Committee had reviewed and commented on the proposed control framework for the reward and recognition proposals which the Remuneration and Nomination Committee would consider for approval later in April.
14. In light of the changes in Committee membership, a decision had been made to undertake ARAC's full annual self-assessment at the end of the year alongside the review of Board effectiveness. The Committee undertook a high-level assessment of its current operation and progress against its 2017 review. Recommendations to update the Terms of Reference were noted and would be agreed out of Committee.

Item 5 – RemCO update

15. The Chair of RemCo reported on the ongoing work to develop the Employee Value Proposition Reward and Recognition Framework. The next Committee meeting was taking place on Friday 27 April.

Item 6 – Standing reports

Chief Executive's Report

16. The CEO presented a report highlighting the key issues arising since the last meeting.

17. Following the publication of the 2018-19 Business Plan, staff briefings had been held to communicate organisational priorities.
18. LeO's gender pay gap report was published on 28 March. The pay gap was 10% and consistent with the civil service average of 11%.
19. The [REDACTED] is now paying rent but has not confirmed the precise date on which it moves into LeO's office. **Fol Redacted s.36 (2) (c)**
20. A discussion took place about recruitment. Rolling operational recruitment continues. 19 new staff joined the organisation in April. The CEO reported on the progress being made in developing a strategic partnership with a local university with a view to developing the recruitment pipeline. If successful, this model could extend to other universities over time.
21. The successful flexible working policy could enable wider geographical markets to be opened up for recruitment in the future.
22. The OLC Chair continues to provide voluntary assurance letters to the Legal Services Board Chair after each Board meeting. The OLC's Chair, Chief Ombudsman and CEO are to attend the LSB Board meeting on 24 April to discuss 'what good looks like' in terms of governance and transparency.
23. The CEO and Chief Ombudsman are to attend a business assurance meeting with the MoJ on 24 April; the CEO of the LSB would be in attendance for part of this meeting.
24. The successful induction of three new Board members took place in March. New Board members thanked staff involved in the planning and delivery of the induction sessions.
25. The Board **noted** the update on legal matters that had been issued separately under legal privilege.
26. The Board **noted** the issues highlighted in the CEO's report.

Chief Legal Ombudsman's Report.

27. The Chief Ombudsman presented an update on key activities since the March Board meeting. She continues her improvement work across the business to address the organisation's key priority to achieve a significant improvement in performance.
28. New structures and ways of working have been introduced and are to be monitored, evaluated and refined to ensure continuous improvement.
29. A discussion took place about the supervision model introduced by the Chief Ombudsman to improve ways of working. There was some concern that the model could impact on the independence of the Ombudsmen and might conflict with the organisation's desire to empower its staff. In response, the Chief Ombudsman explained that evidence showed that there were stages during the business process that were key to quality decisions or where the pace of investigations often slowed down. The aim of the supervision model was for Ombudsmen to provide key interventions to investigators in order to ensure that the progression and quality of

investigations was maintained. It was anticipated that as the pace and quality of investigations improved, the level of supervision could reduce.

30. The Chief Ombudsmen reported that the supervision model would be continuously monitored. It was anticipated that a formal evaluation could be presented to the Board towards the end of the year, but this would be dependent on sufficient complex case investigations having concluded.
31. Detailed new guidance on areas of process has been developed and telephone training has been delivered to improve efficiency and effectiveness.
32. New cross-functional operational governance processes have been created including a quality committee, a service policy group and a performance oversight group.
33. An improved focus and terms of reference for senior manager meetings has been introduced to reduce time and improve visibility of oversight of key deliverables and risks.
34. Coherent and specific performance objectives, with a line of sight from frontline to senior management and the business plan have been agreed for staff in the Chief Ombudsman's reporting structure and there are clear expectations of line managers to drive delivery and performance.
35. A Category 1 Publication was published on 14 March 2018.
36. Following recruitment activity for Pool Ombudsmen earlier in the year, a further nine Pool Ombudsmen have agreed to join the organisation. A further round of Level 1 Ombudsman recruitment was underway. Board approval for the appointment of new Ombudsman would be sought in due course.
37. The Chief Ombudsman updated the Board on meetings with Citizens Advice, the Law Society and the Solicitors Regulation Authority and other externally focussed activities.
38. The Board **noted** the Chief Ombudsman's report.

Finance Report

39. The CEO presented a paper providing an overview of the unaudited financial position at the end of month 12 which included a commentary on the key issues in the management accounts.
40. Since the March Board, the Legal Services Board had approved the 2018-19 budget and the MoJ has provided temporary authority to incur expenditure pending the MoJ issuing finalising delegations for 2018-19.
41. Movement in the forecast outturn in the legal jurisdiction at the end of quarter 3 had resulted in an increase in the overall underspend against budget. To reduce the risk of underspend in 2018-19 the CEO advised that finance business partners would be working closely with budget holders and working to 1% variance target in 2018/19.
42. The lower than expected number of case closures had resulted in an increase in the cost of the annual unit cost per case.

43. Good progress was being made on financial reporting for the Annual Report and Accounts.
44. The Board **noted** the contents of the finance report and asked the executive to develop an appropriate communications plan to support publication in July.

Item 7 – Quarterly strategic and performance update

45. The Chief Ombudsman and CEO presented a paper reporting on progress against strategy at the end of quarter 4. This included strategic risks, progress against the 2017/18 business plan, quarter 4 performance against the balanced scorecard and operational performance.
46. The CEO advised that good progress had been made delivering the 2017/18 business plan but that operational performance against KPIs remained very poor.
47. In discussion, the Board was advised that evidence of improved performance as a result of the initiatives set out in the 2018/19 business plan and other performance improvement interventions was expected to be seen towards the end of the 2018/19 financial year in line with the predicted performance trajectory.
48. The Board asked for performance reports in 2018-19 to include a forward projection of monthly performance. The introduction of tolerances for KPIs would ensure that the Board was alerted to any performance issues in a timely manner.
49. Lessons learnt from the Dispatches programme would be shared with the Board once internal investigations had concluded.

ACTION: Chief Ombudsman to share the lessons learnt from the Dispatches programme with the Board.

50. In discussion, the Chief Executive **noted** the Chair's suggestion to set up a project to determine the decommissioning process for the old case management system and how to deal with legacy cases held on this system. The Chief Executive advised that the project would plan for this, informed by evaluation of the early progress being made by the new legacy team. The Chief Executive **agreed** to provide regular updates to the Board on the progress being made to decommission the old case management system within the quarterly Modernising LeO report, linked to the progress of the legacy team. The Chief Ombudsman confirmed that legacy cases are being dealt with in date order, unless a specific risk requires them to be prioritised.

ACTION: The Chief Executive to provide regular updates to the Board on the progress being made team decommissioning the old case management system.

51. The CEO reported that the strategic environment remained challenging and, in light of this, the CEO had stressed to staff the importance of building and maintaining trust and confidence in the organisation.
52. The Chief Ombudsman reported that she would be contributing to a review of the regulation of legal services in Scotland which is considering whether an ombudsman scheme should be introduced.

53. The Chief Ombudsman and CEO have a meeting with the CEO of the Scottish Legal Complaints Commission (SLCC) in May where they would be discussing the implications of this review and any possibilities to work together and would report back to the Board in due course.
54. The Chair advised that she had received a meeting request from the Chair of the (SLCC) and was hoping to meet with him in May.
55. The Board **noted** the quarterly strategic and performance update report.

Item 8 – Quarterly Modernising LeO report

56. The CEO presented a paper setting out a quarterly update on the progress made on the Modernising LeO programme for quarter 4, 2017/18.
57. Since the report was written, the new case management system had successfully gone live and the new telephony system had been updated to reflect changes to the new staffing model. Work continues to fix a number outstanding bugs within the system and progress was being closely monitored. Some workarounds would be in place while dual systems were in operation and as remaining work was completed.
58. The Business Intelligence (BI) project follows on from the new case management system and would address longstanding challenges of management information. Good progress had been made in defining the requirements for the data assurance project and project work will commence once the new BI specialist joins the organisation at the end of April.
59. Programme risks remained stable. Risks centred on resources to support programme delivery, the scale of ambition and the changes negatively impacting performance. With the new case management system now live, these risks would fall significantly when they are next reviewed.
60. Following discussion, the Chair recommended archiving the old case management system as a priority in light of the anticipated negative impact the planned Microsoft update would have.

ACTION: The CEO to arrange for the old case management system to be archived as soon as possible.

61. The Board **noted** their thanks to all the staff involved in the development and implementation of the new case management system and transition to the new business process.
62. The Board **noted** the quarterly update on Modernising LeO.

Item 9 – Annual Service Complaint Adjudicator’s report

63. The Independent Service Complaint Adjudicator (SCA), Claire Evans, presented her detailed annual report to the Board setting out the outcome of stage 3 service complaints she had considered during the business year.
64. A total of 129 service complaints had been received at stage 1; 42 were referred to stage 2 for consideration by a senior manager, and 19 were referred to the SCA. In 2017/18 the SCA investigated a total of 21 service complaints, of these, 4 were open at the start of the year and two remained open at the end of the year.

65. The SCA reported that there had been 213 individual issues of complaint raised within the 21 service complaints she had considered. Of these, the SCA supported 32 (15%) in 14 cases she had looked at, which was in line with the end of year position of 14.5% in 2017/18 and other ombudsmen schemes.
66. Overall, the service complaint responses provided by LeO at stages 1 and 2 had been detailed and included appropriate apologies where service issues had been identified.
67. The SCA raised some concerns to the Chief Ombudsman in the second half of the year where senior managers had failed to contact complainants in order to clarify their service concerns; this has resulted in review of the whole service complaint process.
68. The main reasons for complaint related to delay and communication. The SCA was pleased to note that the automated processes set up in the new case management system would mitigate the risk of service complaints in these areas in the future and noted that the appointment of additional resources in the Compliance Team had resulted in a significant reduction in delays in the administration of service complaints.
69. Two cases related to issues around equality and diversity where complainants' needs for reasonable adjustments had not been sufficiently taken into account. As a result of the feedback provided by the SCA, training for staff on reasonable adjustments had been provided and further training around vulnerable customers was planned. The Board supported the action taken to support vulnerable complainants and improve issues around equality and diversity.
70. There had been three cases referred to the SCA where she had reached a different view to the organisation on the appropriate level of redress, but overall she had been content with the approach taken towards redress on cases she had seen.
71. The SCA had been pleased to see that LeO had been receptive to the suggestions she had made for service improvements and had taken action to implement the changes she had suggested throughout the year.
72. In discussion, the SCA confirmed that the number of cases upheld by her was comparable to other organisations within the ombudsman sector.
73. A summary report by the SCA is to be included in LeO's Annual Report and Accounts.
74. The Board **noted** the SCA's detailed annual report.

Item 10 – Gifts and hospitality register

75. The Board **noted** the quarterly gifts and hospitality report covering the period 17 January 2018 to 13 April 2018 and **approved** it for publication.

ACTION: Board Secretary to publish the gifts and hospitality report.

Item 11 – Register of Interests

76. The Board **noted** the quarterly register of Interests for OLC Board Members and Ombudsmen and **approved** it for publication subject to some minor amendments requested by the Chief Ombudsman.

ACTION: Board Secretary to publish the Register of Interests for OLC Board Members and Ombudsmen, subject to some minor amendments requested by the Chief Ombudsman.

Item 12 – Board and senior manager expenses

77. The Board Secretary presented a report on the expenses paid to Board members and senior managers between 1 January 2018 and 31 March 2018. Some expenses for quarter 4 had not yet been paid and were therefore not included in the report. An updated report would be tabled at the June Board meeting.

78. The Board Secretary agreed to confirm with individual Board members the details of expenses that had not yet been paid to them.

79. Subject to a minor amendment and clarification of the details of expenses not yet paid to individual Board members, the Board and senior manager report was **approved** for publication.

ACTION: Board Secretary to publish the Board and senior manager expenses subject to a minor amendment and clarification of the details of expenses not yet paid to individual Board members.

Item 13 – KPI Tolerances

80. In its Board effectiveness review in October 2017, the OLC agreed that the Executive would develop tolerances for the new KPIs and the strategic measures beyond which any variations would be reported to the OLC.

81. The OLC approved its KPI framework for 2018-19 at its meeting March and the CEO presented a paper setting out the proposed tolerances for these KPIs for the Board to review and provide feedback.

82. The Board commented on how important it was for them to have a very clear sense of the progress being made by the organisation and, in light of this, raised concerns about some of the proposed timescales for reporting on tolerances to the Board, asking for these to be reviewed. The Board **agreed** that performance issues were such that 2018-19 should be an exceptional year which would require more active use reporting to assure the Board about the performance assurance trajectory and provide opportunities to consider remedial action.

83. The Board felt that there would be occasions when breached tolerances should be reported directly to them instead of going through the proposed escalation process, effectively ensuring 'red line' thresholds are in place which would trigger immediate escalation.

84. The Board felt that the responsibility and mechanism to escalate breached tolerances to the Management Team and Board required more clarity.

85. The CEO **noted** the Board's comments and **agreed** to update the paper accordingly before it is tabled for final approval at the June Board meeting.

Item 14 – Equality Priority Objectives and presentation on working with transgender service users.

86. The Chief Ombudsman and CEO presented a paper setting out the progress made against the Equality Priority Objectives (EPOs) for 2017/18 and the proposed new EPOs for 2018/19, which once agreed would be added to the business plan published on the LeO website.
87. This agenda item was supported by a presentation from Nicola Hampton (Level 1 Ombudsman) and Penny Medlyn (Operations Manager) about improving the accessibility and inclusivity of LeO's service for transgender people.
88. The Board **noted** the progress made against the 2017/18 EPOs and highlighted the importance of properly capturing reasonable adjustments at the outset and developing appropriate responses to them.
89. Following discussion about the proposed 2018/19 EPOs, the CEO **agreed** to re-word objective 4 to reflect the new GDPR requirements around collecting equality and diversity data. The Board also asked the executive to consider whether addressing the gender pay gap should be a specific objective for 2018-19.

ACTION: The CEO re-word objective 4 to reflect the new GDPR requirements around collecting equality and diversity data.

90. Subject to the amendment to objective 4, the Board **approved** the EPOs for 2018/19.

Item 15– AoB

91. Nicola Hampton suggested that the organisation might be able to expand its potential recruitment pool by making links with charities, such as Citizens Advice, where people often work as volunteers whilst looking for a permanent job.
92. The Board Secretary confirmed that the Board to Board meeting with the Bar Standards Board would be taking place between 14:00 and 16:00 on 17 May. The Chair, Bernard Herdan, Michael Kaltz and Rebecca Hilsenrath confirmed their attendance at this meeting. Briefing would be provided in advance.
93. The Board Secretary advised that recruitment activity was underway for new Level 1 Ombudsmen. In due course she would be contacting Board members out of committee to seek their approval to the Chief Ombudsman's recommendation to appointment.
94. Following the Board meeting, Members took part in the annual strategic risk workshop to review the strategic risks and set the organisation's risk appetite for 2018-19.