Legal Ombudsman
Edward House
Quay Place
Birmingham
B1 2RA
www.legalombudsman.org.uk

Dr Helen Phillips
By email

8 November 2021

Dear Helen

The OLC's Board meeting on the 18th October focused on the consultation document which went live on 5th November. This was also discussed with a subset of the LSB Board and Executive at a challenge meeting on 28th October.

My update to you in September focused on the mid-year review. This focussed on where progress has been made including providing more information on the innovation pipeline; where progress has not been made and explaining why not, with a particular focus on what's constraining improvement; and the scope for Scheme Rule changes.

The consultation document, now issued by the OLC, includes a mid-year review of the first six months of 2021/22, alongside: A revised future improvement trajectory for the remainder of 2021/22 through to 2023/24; the draft Business Plan setting our provisional plans for 2022/23; and LeO's proposed Budget for 2022/23.

Given the timing of the consultation and the focus of the Board meeting, much of the messaging in this voluntary assurance letter rightly coincides with information that has previously been shared with LSB Board colleagues.

In keeping with previous formats, this letter focuses on:

1. Performance improvement including responding to COVID-19
2. People and Leadership
3. Risk management and financial governance
4. Enhanced public reporting

For each section it sets out the assurance received to date by the OLC Board along with the additional assurance being sought through further actions, many of which are already in hand.

Performance improvement including responding to COVID-19

The overview: *The focus on stabilising the business continues. LeO has made significant progress, particularly in identifying the opportunities for process improvements. As LeO has sought to deliver substantial organisational turnaround and transformation, it's become clear that its overall offering as an employer is not helping to attract and retain staff in the numbers set out in the Business Plan. This has combined with an exceptionally challenging* *employment market to undermine the achievement of the Business Plan forecasts. The Business Plan assumption was based on an expectation of 84 established investigators in post. As of the end of September, the established investigator number was at 70.43 FTE representing a 16% reduction. The investigator cadre has been below expected resourcing levels since April 2021, despite three rounds of recruitment, although closure performance is higher than 2020/21 but with fewer established investigators.*

Assurances received:

1. Significant progress has been made in stabilising the Legal Ombudsman and delivering on Business Plan commitments over the first six months of 2021/22. This includes:
    a. Delivering more case closures with significantly less investigators. The first 6 months saw a 30% year on year increase despite being between 16 and 20% down on established investigative FTE and individual productivity figures have improved in year by one case closure per established investigator per month.
    b. Already delivering a significant change by doing things differently and more proportionately by investing in early resolution work that has delivered 392 case closures without the need for investigation.
    c. More efficient investigations with quicker investigation times across all case complexities, 10% quicker overall.
2. Reasonable Offer Made and Guided Negotiation activity is now part of business-as-usual processes supporting earlier outcomes for customers awaiting investigation of their complaint. From next month, these early closures will be more visibly counted and recognised as a critical part of LeO's improvement trajectory.
3. Customers need to understand when they can expect their investigation to start and during September LeO has continued to test electronic updates with them, matching the updates shared with complainants.
4. Volumes within the PAP stabilised in September. This was due to the July new starters taking cases to increase their case holdings and the newly formed pilot of General Enquiry Team Investigators who are making the expected improvements in their performance as they work through a training curve.
5. The OLC has revisited its Task and Finish Group, a subset of the OLC Board, which has focused on the resetting of assumptions. It has been reassured that the forecasting model is now more dynamic and layering is starting to be added so that early resolutions are being factored in.
6. The Board supports LeO Executive's approach to making sure the Scheme Rules are working with a clear proviso that changes should not make it more difficult to complain. They were assured by the checks and balances that will be in place and LeO's commitment to completing impact assessments.

Additional assurances being sought:

1. The OLC committed to delivering a multi-year improvement strategy over a two-year period. The Board was assured that there is much in 'Plan A' – the Business Plan for 2021/22 - that is working but it is not working quickly enough. Along with the LeO Executive it committed to taking radical action and engineering a step change. This is the 'Plan A Plus' and the consultation document will need to set out a clear rationale for why this is now needed, recognising that some of the proposed changes will elicit different responses from different stakeholders.
2. A revised improvement trajectory for 2022/23, taking full account of the quantifiable impact of implementing 'Plan A Plus', will need to be provided. This will enable the Board and others to answer the question of when there will be a step change in performance and how much this will cost. The Board recognises different confidence levels and the need to balance this with over-promising and under-delivering and is keen to see these levels openly shared in the consultation document.

3. In looking at the Scheme Rule changes further consideration should be given to an Ombudsman decision and what this means. This could come down to scope for a re-interpretation of the Rules or require a formal wording change but also speaks to the importance of communication around delegated authority. The Board will look for assurance that the complainant perspective has been actively sought alongside consideration of effective use of external resource and external validation.
4. In considering the budget for 2022/23 the Board suggested a clearer rationale was needed as to why there won't be the underspend that there is in 2021/22.
5. Whilst core demand remains at 600 per month this is a significant increase of 150 cases per month when compared with 2019/20. The Board asked for consideration of why this is and assurance about what this means for future forecasting.

People and Leadership

The overview: *The major reason for the failure to meet Business Plan targets has been the prevailing employment market conditions which have affected the ability to reach the required numbers of people in investigative teams. This has included recruiting sufficient numbers of new people of the right quality alongside an unexpected increase in the number of people leaving the organisation. The established investigator FTE has been 16-20% below 2021/22 Business Plan assumptions. Leo is taking steps to tackle this through the People Strategy which will review the employee proposition taking account of the approach to diversity, pay and reward, and the development of staff. In addition LeO will shortly start working with a managed recruitment service with specialist recruitment skills to identify a broader range of potential applicants and to conserve internal resource for delivering business as usual.*

Assurances received:

1. The operational leadership team continue to drive improvements in performance variation for established investigators; individual productivity figures have improved in year by one case closure per established investigator per month. As predicted, this in part has increased sickness levels across the investigator population which has risen from a loss of 6.48% of available investigator days in August, to a loss of 8.05% of available investigator days in September.
2. 70 operational roles, with 50 external appointments have been made this year and a further 13 investigators have been offered roles from the September campaign. The December recruitment campaign is expected to be run by an external provider, and deliver circa 25 investigators.
3. The General Enquiries Investigator role has been developed and successfully recruited into; the role is already helping to maximise case closures and uses expensive investigator resource more effectively.
4. July's new starters have made an encouraging start in closing more cases for customers than expected, delivering 30 closures against an expected target of 13.
5. Increased performance management has also driven increased attrition. The distribution of established to non-established investigators has moved from 100% established and as of November stands at a 58%/42% split. The percentage of non-established investigators will increase with subsequent recruitment rounds, with the third recruitment campaign of the year underway.
6. LeO expects to use a managed recruitment partner to develop its attraction strategy and support increased interest in joining LeO. This campaign is planned for November/December with a January/February start. The expectation is these new cohorts will not add to the performance in 2021/2022. Case closures will continue to be affected until the gap in FTE can be closed or demand decreases.
7. Edward House re-opened to all staff from the start of August with staff encouraged to return on a voluntary basis as part of a 3-month trial. Covid secure measures remain

in place. The pilot has now been extended to the end of December but on a revised basis with staff required to return to the office for 40% of their contracted days from early November (subject to existing flexible working arrangements in place and reasonable adjustments). Drop-in sessions throughout November and December will capture and respond to feedback provided.

Additional assurances being sought:

1. The Board questioned how the revised attraction strategy will embrace the importance of EDI and how LeO will satisfy itself that it is offering its staff an inclusive work environment.
2. In considering plans around the return to the office the Board wanted to understand more about the impact of home working on performance variations, recognising that some organisations had seen an increase in productivity during lockdown. The Board indicated a desire to how the potential impact of a nationwide recruitment campaign could build on remote working capabilities, infrastructure and environment.
3. The Board asked to understand the difference between attrition based on lack of attractiveness of the LeO employment offer and that resulting from performance management.

Risk management and financial governance

The overview: *At the Audit and Risk Assurance Committee (ARAC) earlier in October, the External Auditors gave a sense of how far risk assurance and financial governance is progressing in LeO with a clear message of "you have made huge improvements since 18/19...you've done the big steps and now you just have the little ones to make it better".*

Assurances received:

1. The internal audit report on Business Continuity and Covid-19 response provided a substantial assurance rating that the OLC has suitably resilient business continuity arrangements in place to enable continued delivery of its services at agreed levels following a disruptive incident, and that Covid-19 lessons have been considered and built into the business continuity process.
2. At October's ARAC, Committee members considered risk appetites for each of the critical risk themes whilst also looking at the results from LeO's first risk culture survey. The survey showed that the expected level of knowledge of risk across the organisation requires improvement and there are a range of activities which are either underway or planned to drive this forward. A follow up survey will be conducted towards the end of the financial year with a view to validating the work currently in plan.
3. The appointment of a Finance Manager has added capacity and capability to the team and is already enabling more thorough forward planning for year end – such as the use of disclosure guidance, and the checking of working papers ahead of audit.
4. Time and attention continues to be given to Board effectiveness with all past actions from the previous external and independent reviews revisited; relevant recommendations from the internal audit report on Corporate Governance looked at; along with providing a provisional plan of Board development commitments for the end of 2021 and into 2022.
5. The GIAA review of corporate governance recommended that LeO's governance structures should be reviewed and that this should be supported by clearly defined Terms of Reference including specific decision-making responsibilities of the Board / Committees, out of committee decision making protocols and appropriate escalation routes. Responding to this audit recommendation key organisational governance documentation was reviewed to ensure they are accurate and up to date.

Additional assurances being sought:

1. Recruitment and retention of staff is a significant challenge and this is having an impact in turn on the size of the underspend. The Executive Team is prioritising interim resource requirements in key areas which will be funded by the underspends from a number of executive and corporate vacancies. The Board considered whether and how LeO can repurpose some of this underspend to continue with its improvement plans. This includes strengthening the General Enquiries Team, the Level 2 Ombudsman Team and Operations Management.

Enhanced public reporting

The overview: *In the 2021/22 Business Plan, the OLC willingly committed to more public dialogue and enhanced public accountability. Previous consultations have indicated a desire for more information on performance and a desire to understand more about what the Legal Ombudsman is doing in response to the challenges it faces. The current consultation should therefore be read alongside the more detailed performance information that has been shared this year, including through the commonly agreed dataset, and regular stakeholder engagement and updates.*

Assurances received:

1. A significant focus of both the Chair and Chief Ombudsman in recent months has been on stakeholder engagement, focused largely on accounting for LeO's performance and progress against the Business Plan and laying the ground for the mid-year review and Business Plan consultation. Meetings have included with the Chief Executive and Chair of the Council for Licensed Conveyancers, the Chief Executives of the Bar Standards Board and Costs Lawyers Standards Board as well as meetings with the Chair of the Bar Council, a presentation to a meeting of the Bar Council Board and a meeting with the President of the Law Society.
2. The Chief Ombudsman and Chief Operating Officer also recently presented to Law Society Regulatory Policy Committee (RPC) and meetings are planned over the coming period with the Legal Services Consumer Panel and the SRA.
3. The third meeting of the Stakeholder Challenge and Advisory Group was held in October in the lead up to the October OLC Board meeting. The Group focused on themes from the mid-year review and 2022/23 Business Plan, the PAP reduction project and the Scheme Rules review project.
4. General feedback continues to be a recognition of the work being undertaken, welcoming elements of progress being made and developing an understanding of the challenges faced.
5. The Commonly Agreed Dataset is now being shared with the Stakeholder Challenge and Advisory Group and LeO has met its commitment to begin sharing the full agreed dataset more broadly on a monthly basis with stakeholders including regulators, professional bodies and the LSCP.

Additional assurances being sought:

1. The Board discussed the need to ensure targeted and considered approaches are made to each stakeholder as part of the consultation process and to ensure individual questions can be considered, addressed and answered.

I think this letter shows how much consideration is being given to the consultation document Helen and any duplication is intentional and seeks to reiterate key messages for LSB colleagues.

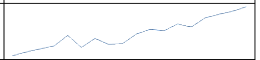
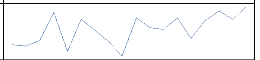
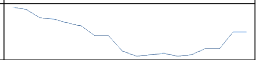
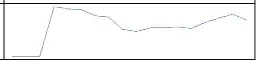
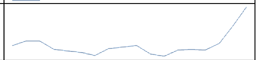
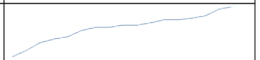
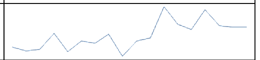
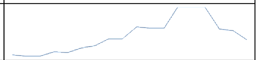
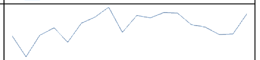
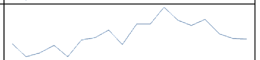
As we move into the second half of the year it is essential that the Legal Ombudsman, the Board of the Office for Legal Complaints (OLC), and our stakeholders understand the causes of the problems along with the radical and pressing actions that will be taken to address these, delivering a level of sustainable and acceptable performance for LeO’s customers.

Best wishes

Elisabeth Davies
Chair, Office for Legal Complaints

Appendix A – Performance Data

Summary of key data

Measure	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Trend
Customer Journey Time (Avg. Low Complexity)	182	197	204	202	226	222	220	232	248	270	279	285	301	295	300	299	311	314	
Customer Journey Time (Avg. Medium Complexity)	281	297	306	318	355	312	346	323	325	362	377	372	397	387	419	432	442	459	
Customer Journey Time (Avg. High Complexity)	526	518	547	713	489	676	612	545	458	681	623	616	684	563	665	721	676	750	
Rolling Annual Turnover Rate	22.1%	21.6%	19.4%	18.9%	17.9%	17.1%	14.6%	14.6%	10.6%	9.1%	9.5%	9.9%	9.1%	9.6%	11.2%	11.2%	15.6%	15.5%	
Rolling Annual Turnover Rate - Investigators	-	-	-	21.6%	20.5%	20.4%	17.8%	16.9%	11.8%	10.9%	12.6%	12.6%	12.8%	12.0%	14.8%	16.6%	18.4%	15.7%	
Sickness - lost days per head	11.44	11.68	11.66	11.26	11.2	11.1	10.96	11.3	11.38	11.45	11.04	10.91	11.24	11.26	11.21	11.54	12.43	13.35	
Volume of cases awaiting assessment (PAP) - at end of month	2,464	2,898	3,360	3,603	3,757	4,160	4,330	4,356	4,500	4,513	4,637	4,829	4,840	4,924	5,068	5,552	5,664	5,677	
Productivity per (established) investigators	4.02	3.87	3.93	4.61	3.83	4.29	4.18	4.59	3.63	4.30	4.43	5.75	5.01	4.78	5.62	4.95	4.86	4.87	
% established / developing investigators	59%	58%	58%	61%	61%	65%	67%	73%	73%	83%	82%	82%	100%	100%	100%	81%	80%	72%	
Cases accepted for investigation	323	196	328	378	286	407	442	504	347	454	438	469	468	397	382	334	339	460	
Cases resolved after investigation	367	300	318	358	299	385	396	437	363	468	466	552	488	458	491	418	393	388	

Measure	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Trend
Customer Journey Time (Avg. Low Complexity)	301	295	300	299	311	314	
Customer Journey Time (Avg. Medium Complexity)	397	387	419	432	442	459	
Customer Journey Time (Avg. High Complexity)	684	563	665	721	676	750	
Rolling Annual Turnover Rate	9.1%	9.6%	11.2%	11.2%	15.6%	15.5%	
Rolling Annual Turnover Rate - Investigators	12.8%	12.0%	14.8%	16.6%	18.4%	15.7%	
Sickness - lost days per head	11.24	11.26	11.21	11.54	12.43	13.35	
Volume of cases awaiting assessment (PAP) - at end of month	4,840	4,924	5,068	5,552	5,664	5,677	
Productivity per (established) investigators	5.01	4.78	5.62	4.95	4.86	4.87	
% established / developing investigators	100%	100%	100%	81%	80%	72%	
Cases accepted for investigation	468	397	382	334	339	460	
Cases resolved after investigation	488	458	491	418	393	388	