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

Dr Helen Phillips
By email

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Dear Helen

The OLC Board met on the 17th May, just six weeks into the new financial year. The meeting was characterised by a clear message of delivering commitments and good progress on implementing the Business Plan. Importantly, delivery is being supported by a programmatic planning approach, which should result in improvements that are sustainable and guard against any sense of 'false highs'.

The focus was not just on improving operational delivery. In looking at financial governance and risk it is clear that LeO is not losing sight of the need to make improvements across the organisation, a factor that further reinforces the sustainability of progress.

Since sharing the last VA letter with the LSB Board, discussions have taken place with the LSB Executive about enhanced public reporting. I have agreed to provide a further update on this in all future VA letters and so I have covered

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

**Performance improvement including responding to COVID-19**

*The overview:* *LeO exceeded assumptions for case closures in April (488 against a target of 473), the fourth month in a row. At 5.75, Investigator productivity in March was the highest for 15 months (in April it was 5.01 which compares to 4.02 in April*

*2020). The first week of May saw the highest number of closures since 2018. As emphasised previously, there is absolutely no complacency. The PAP is still largely as expected with 4,840 cases as of 1st May and good progress is now being made by the PAP reduction project. Resourcing issues in the General Enquiries Team have resulted, for the first time in 12 months, in a breach of the requirement to clear all emails within 31 days. Current Covid restrictions continue to impact on LeO staff whilst the Executive is making progress on planning a return to office, with plans to test and trial how different ways of working could impact performance and delivery.*

<u>Assurances received:</u>

1. The Board continues to be assured by the laser focus that the Executive is bringing to addressing both the size of the PAP and the waiting times for those customers within it. Investigator case holding has now increased to 15.64 cases per Investigator (this compares with 12.10 cases per Investigator in April 2020).
2. There has been an increase in timeliness across all complexities. This is down to the resolution of older cases and is consistent with messaging the Board received in March when it was noted that customer journey time will continue to rise, exacerbated by old cases coming to conclusion, until new ways of working and improved Investigator productivity can be embedded.
3. The Board heard directly from the three Operational Managers who are leading on Pre-Assessment Pool (PAP) Backlog recovery. The Board was assured by their rigorous focus on understanding the PAP:
   - 51% low complexity cases.
   - 47% medium complexity cases.
   - 2% high complexity cases (a small number but this includes a number of those customers who have waited longer)
   - 3,669 cases have areas of law recorded.
   - 201 cases have closed or intervened firms.
   - 709 cases have a first tier offer recorded.

4. Building knowledge of the backlog is critical for tailoring the right approaches and the Board heard about a number of interventions that are already being progressed including Reasonable offer made; Guided negotiation; Specialist law teams; Triage improvement and Robotic Process Automation. The Board was

assured that it will now receive an update on the PAP reduction project as a standing agenda item at every Board meeting.

5. Crucially, the Board spent time considering the quality of LeO's work. It reviewed the Annual Report of the independent Service Complaints Adjudicator who emphasised their low uphold rate of 12.5% (the lowest in their six years in role) and noted that, in reflecting on the last year they are "satisfied that the quality of responses has remained consistent throughout this time". Delays and the management of such continues to be the main reason for a service complaint being brought.
6. Alongside the Service Complaints Adjudicator's report, the Board also received an update on key trends identified from LeO's quality assurance framework over the last six months. It particularly noted that the quality of communication along with the speed of LeO's process continue to be the key drivers for dissatisfaction among customers. The Board was reassured that significant work has taken place in the last six months to try and improve this. This has included improving the information about wait times on LeO's website, piloting a system which allows LeO to send bulk updates to those waiting at the front end, and improving the content of letters.

<u>Assurances being sought:</u>

7. An email backlog has grown in the General Enquiries Team. The Board was assured that this had reduced by 50% since the Board paper was submitted and normal work in hand email levels will be recovered by the end of May. The Board will seek assurance that no further delays are being introduced into the end-to-end journey for customers.
8. The Board continues to seek assurance about the ongoing commitment to addressing differentials and performance variations. Productivity levels between Investigators still vary significantly and the Board is keen to ensure a balance is maintained between providing full support for staff whilst actively addressing performance management issues.
9. The Board questioned the number and range of interventions being explored in the PAP reduction project, seeking assurance that LeO was not being 'spread too thin'. The Board was reassured that agility at this stage is key, along with the need to be able to respond to increased knowledge and data, and that this can be further tested at future Board meetings.

10. In recognition of the importance of keeping on top of the quality of the customer experience, and the review of the Quality Framework, the Board will receive its next quality assurance update at the end of the next quarter rather than in six months' time. This is also reflective of the reduction in the sample size of the last six months of data due to Covid. The Board is clear about its commitment to ensuring quality remains a live issue and that it can understand the experience of those who use LeO's services.

**People and Leadership**

The overview: *Significant recruitment was launched on 3rd April with a target of 18 Investigators; 8 General Enquiries Team advisors; a minimum of 2 Team Leaders and 2 Ombudsman roles. This is a sizable undertaking for all involved, requiring investment of operational and corporate resource. The Chief Ombudsman continues to make good progress with rebuilding the Executive and Management team functions and a number of strong appointments have recently been made, including to HR and risk management. Staff engagement has been further strengthened. Led by the Chief Operating Officer there is a clear sense emerging of just how different LeO feels as a place to work, a shared accountability for delivering improvements for customers, and a much better approach to change management – "you genuinely want to listen to staff about their concerns and ideas for improvement".*

Assurances received:

1. 100% of Investigators are now considered 'established' (although 16% of the cohort are extended probationers whose outputs are lower – probation was exceptionally extended into the second year of employment due to Covid). The Board noted that LeO started 21/22 with a deficit of 10 Investigators, equating to a deficit of 63 planned closures each month. Recruitment commenced at the beginning of April and will continue until the end of May. The Board noted and appreciated that staff supporting the Assessment Centre are currently working at weekends. It was assured by the commitment to quarterly rolling recruitment, ensuring gaps as currently experienced will be minimised.

2. The Board welcomed the continued focus on implementing the People Plan, noting actions to mitigate against amber and red RAG status of specific work streams.
3. The Board was assured that a new role, sitting between the General Enquiries Team and the Investigator Team (effectively a 'Junior Investigator' role) will be discussed with Staff Council and RemCo in June. This will be a less costly resource, will allow Investigators to be more productive and will ultimately enable LeO to do more with its staffing resource.
4. Following on from the March Board meeting, the Board reconsidered a full report of the 39 recommendations of the two Independent Reviews. Having reviewed each of the three outstanding or 'ongoing' recommendations, the Board agreed that it was content to now consider all recommendations closed. This was on the basis that they had been fully integrated into BAU or within delivery against the People Plan priorities; would be taken into account in the Board development programme; or would be moved into appropriate Board follow up actions.
5. Establishing senior resilience in the Executive Team and wider Management Team remains a priority for the Chief Ombudsman with a number of appointments made and further recruitment ongoing. The Board noted a new Head of People Strategy and Services will join the Executive Team on 15th June. The Management Team has also been strengthened through a new Risk Manager, Finance Manager, EDI Manager and interviews are progressing for the role of the Performance and Business Intelligence Manager.
6. The Board particularly welcomed the opportunity to be sighted of the positive feedback received from staff in relation to engagement. It is clear that the emotional contract between LeO's staff and leaders has been re-engaged and this is a significant achievement:

   *"I have been here 10 years and seen 6 leadership changes – this time feels different, you have created safe space for conversation, open and honest...you have balanced people and performance".*

Assurances being sought:

7. The Board sought clarity on the impact of local recruitment and competition with others who are recruiting for Investigations staff in the West Midlands area. It

was reassured that, as part of the post Covid-planning, consideration is being actively given to revised working patterns. LeO is not yet in a position to widen its recruitment to other parts of the country and cannot yet make assumptions about days required working in the office.

8. The Board welcomed the focus of the People report on providing reassuring context, not least to themes in the Independent Review around the Board remaining alert to the reality of how changes are landing with staff. It agreed that in future a balance was needed between being updated on staff engagement and retaining a direct line of sight to the strategic and future priorities of the People Plan.
9. April was Stress Awareness month. The Board noted that days lost through sick absence increased in April, against the KPI of 10 days and following two months of stability. Mental health continues to be the main reason for non-Covid absence. It noted that, if Covid 19 absence was subtracted from the 2021 figures, April 2021 would have a lower level of lost sick absence days than in April 2020 (in April, 23 days were lost to Covid).
10. The Board received information setting out the lessons learned from the Employment Tribunal case earlier in the year. This included findings and lessons on decision-making; on communication; on how the OLC Board was updated and assured; on responding to grievances; and on receiving legal advice and settlement. This will be discussed in detail at the next Board meeting and following internal review.

**Risk management and financial governance**

<u>The overview:</u> *Further progress has been made in re-establishing good financial governance across the organisation and more rigour is being brought to the updated risk assurance framework. The external audit had started well but has now been paused by BDO due to staff illness. LeO has been assured that this will not have an impact on the end submission date. The internal auditors have shared their end of overall annual opinion with ARAC of a limited rating, acknowledging the improvements of the last six months but basing their opinion on an assessment of the year, rather than the position at year end. A new Finance Manager has been successfully appointed whilst the new Risk Manager has been in place for six weeks and has already enhanced capacity and capability in this vitally important area.*

Assurances received:

1. The external audit commenced on 4th May and the focus of the Finance Team has been preparing reconciliations and supporting evidence. The Board was assured that the external audit partner (BDO) had updated ARAC that there has been a much greater state of readiness this year, and a markedly different level of co-operation.
2. The Board noted the update from ARAC on the overall opinion for the Internal audit (GIAA). It noted that a number of GIAA internal audit reports were presented to the recent ARAC meeting including on Workforce planning (substantial assurance rating); on Case progression part 1 (moderate assurance rating); on Financial management (moderate assurance rating); and on Corporate Governance (limited assurance rating). For this latter report GIAA acknowledged that the findings and recommendations reflected a point in time earlier last year and that progress had been made in the period since. The Board was assured that the Executive have since initiated scoping of a Governance and Contracts project which will plan for a full review of existing governance arrangements to identify gaps and potential improvements. The Board was further assured that a revised approach for monitoring progress against audit actions was also presented to ARAC and will form the basis of future reporting of internal audit actions.
3. The Board was assured that, whilst the GIAA Annual report and opinion delivered an overall limited assurance rating for the year, this was based on their assessment of 2020/21 as a whole rather than the end of year position.
4. In noting the update on the full year underspend of £86,000, the Board was reassured by the work that had taken place to mitigate this position.
5. The Board was assured that a detailed plan of activities to improve risk management had been shared with ARAC and that key priorities in the short-term include the updating of the Risk Management Framework Policy (aligned to the Orange Book / MoJ guidance) as well as supporting information connected to this.
6. In participating in a risk management workshop, Board members were able to reflect on Strategic risks for 21/22 and how they relate to risk appetite. The Board will return to this in advance of the next Board meeting.

Assurances being sought:

1. The pause to the external audit by BDO has caused concerns for the Finance Team and has been escalated to the ARAC Chair and the Chair of the Board. The Board was assured that the ARAC Chair will be following up with the NAO and that written assurance had now been received from BDO that end submission dates will not be impacted.
2. Whilst discussions around strategic risk have improved further work is needed to draw this together into a cohesive collective position, including considering what this means for the overall risk appetite position.

**Enhanced public reporting**

*<u>The overview:</u> The OLC and LeO are already doing much to rebuild trust and confidence through the more effective sharing of information. Enhanced public reporting is not about creating a new dataset or new single communication channel. It is about drawing together the numerous commitments to reporting back along with looking at performance reporting through a communication lens. This includes the OLC mid-year budget and performance review; the commonly agreed dataset as currently shared with the MoJ and LSB on a monthly basis; the work of the Challenge and Advisory Group; LeO's KPIs and revisiting what information is published on the LeO website; along with the general and direct communications which are shared with the sector.*

<u>Assurances received:</u>

1. May is the second month of the revised commonly agreed dataset, reflecting the new layout of metrics by theme and the inclusion of a new narrative. The Board was assured that further consideration is being given to how this will be shared with a wider body of stakeholders.
2. The Board was assured by feedback on the first meeting of the Challenge and Advisory Group. It is critically important to get this right and to invest time and commitment to ensuring the work of the Group can add most value whilst being clear about its authority, avoiding role creep and establishing clear governance around it.
3. The Board was assured by the systematic approach being adopted to learning from the Budget and Business Planning process for 21/22. The mid-year performance review is being actively incorporated within planning for 22/23.

Assurances being sought:

1. Further consideration will need to be given to which key performance information can be ‘pushed’ to LeO’s stakeholders to ensure better awareness and understanding, including through new monthly updates.
2. The data and information published on LeO’s performance on the LeO website will need to be reviewed and further consideration given to the accessibility of this. This will build on the commonly agreed dataset.
3. The Board will review its KPIs as part of the development of the new Business Plan including further development of the framework that has been set out to report on Value for Money.

As ever Helen, I hope this letter provides your Board with a useful and timely summary of both where progress has been made and where further assurance is now needed.

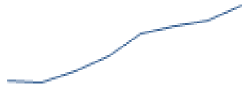
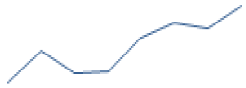
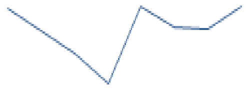
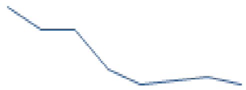
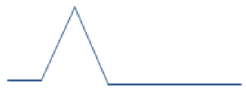
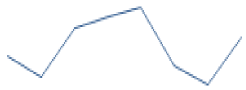
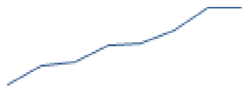
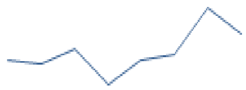
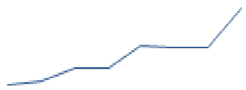
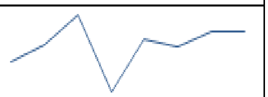
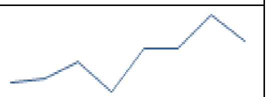
At the Board meeting I was struck by the significant amount of work that has been initiated. There is a new understanding about how the burden rests with everyone at LeO and it is clear just how hard everyone is working, in the words of an Operational Manager, to “step up”. Cultural change is starting to be felt and this is clearly down to the vision and drive of the Chief Ombudsman and Chief Operating Officer who are leading with integrity and visibility.

Best wishes

**Elisabeth Davies**
**Chair, Office for Legal Complaints**

# Appendix A – Performance Data

## Summary of key data from last six months

| Measure | Sep-20 | Oct-20 | Nov-20 | Dec-20 | Jan-21 | Feb-21 | Mar-21 | Apr-21 | Trend |
|---|---|---|---|---|---|---|---|---|---|
| Customer Journey Time (Avg. Low Complexity) | 222 | 220 | 232 | 248 | 270 | 279 | 285 | 301 |  |
| Customer Journey Time (Avg. Medium Complexity) | 312 | 346 | 323 | 325 | 362 | 377 | 372 | 397 |  |
| Customer Journey Time (Avg. High Complexity) | 676 | 612 | 545 | 458 | 681 | 623 | 616 | 684 |  |
| Rolling Annual Turnover Rate | 17.1% | 14.6% | 14.6% | 10.6% | 9.1% | 9.5% | 9.9% | 9.1% |  |
| Rolling Annual Turnover Rate - Investigators | 20.4% | 17.8% | 176.9% | 11.8% | 10.9% | 12.6% | 12.6% | 12.8% |  |
| Sickness - lost days per head | 11.1 | 10.96 | 11.3 | 11.38 | 11.45 | 11.04 | 10.91 | 11.24 |  |
| Volume of cases awaiting assessment (PAP) - at end of month | 4,160 | 4,330 | 4,356 | 4,500 | 4,513 | 4,637 | 4,829 | 4,840 |  |
| Productivity per (established) investigators | 4.29 | 4.18 | 4.59 | 3.63 | 4.30 | 4.43 | 5.75 | 5.01 |  |
| % established / developing investigators | 65% | 67% | 73% | 73% | 83% | 82% | 82% | 100% |  |
| Cases accepted for investigation | 407 | 442 | 504 | 347 | 454 | 438 | 469 | 468 |  |
| Cases resolved after investigation | 385 | 396 | 437 | 363 | 468 | 466 | 552 | 488 |  |