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Dr Helen Phillips
By email

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Dear Helen

My voluntary assurance letters in 2020 have been predominantly framed around *confidence* including confidence in performance improvement; in the modelling system; in operational leadership, capability and capacity; and in the ability to respond to the people issues.

The central message was one of the OLC Board needing to either establish, or scrutinise the establishment of, underlying systems as an important first step towards building an assurance foundation. Progress has now been been made: The commonly agreed dataset between the OLC, MoJ and the LSB has undergone a positive three month review; the Performance and Quality Task and Finish Group has further tested the model, questioning the main assumptions around such factors as closures, attrition, and files added to the PAP; the model has been tested by the MoJ's Data & Analytical Services Directorate who have supported its operation to date along with plans for it to become fully demand-led; and the new Chief Ombudsman and Chief Operating Officer are now in place and prioritising the revised Business Plan and Budget, responding to Covid, staff engagement and the new Executive and leadership function.

To reflect this progress future letters will build on the format adopted in December in focusing directly on three areas:

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

In this letter I would therefore like to set out what assurance was received at last week's Board meeting alongside where further assurance is now required.

I should note that the OLC's Business Plan and Budget for the Legal Ombudsman scheme in 21/22 was a substantive agenda item at January's Board meeting and many agenda items informed this discussion. Separate updates have been shared with the LSB on this. Given its centrality it is referenced in this letter in the context of assurance but no attempt is made to provide comprehensive feedback. We have a dedicated OLC Board seminar on 12th February for final review and approval and in advance of this being shared with the LSB Board on the 18th February.

Performance improvement including responding to COVID-19

<u>*The overview:*</u> *Overall productivity continues to be hindered by the effects of lockdown and* with the return of nationwide school closures – *60% of LeO's Team Leaders are unable to work normal hours. 23 positive Covid-19 diagnoses have now been reported within LeO's staff. The Board heard that whilst November saw the best monthly performance this financial year, performance in December was impacted by the amount of annual leave taken, albeit consistent with the anticipated seasonal fluctuations. Despite these challenges, since the meeting the Board has been informed that, in January, 465 closures were achieved against a target of 443. It should be noted that this is the highest closure rate since March 2020 and is the first time LeO has exceeded performance assumptions since October 2019. The Pre-Assessment Pool grew to 4,513 at the end of January. The Executive has revisited the agreed assumptions in the light of the rapidly changing Covid-19 situation, and has integrated this into development of the final 2021/22 Business Plan.*

<u>Assurances received:</u>

1. The most significant business impact experienced in December related to the amount of annual leave taken in month, over and above what had been originally been forecast. The Board was assured that the decision to allow this level of leave was taken by the Executive to balance the position before the end of the year in the context of wider business impact.
2. The short-term distribution of high complexity cases to additional L1 ombudsmen continues to have a positive impact on customer journey time. The Board was assured that this area of work, and the quick wins initiative, has now been launched, leading to a number of additional closures and

recommendations for future process improvements. The Board received a further update on technical innovation, including the role of robotic processing automation.

3. The Board reviewed a framework document that will form the basis of a Covid Plan, drawing together into one place the corporate responses (for example - use of the office environment, approach to suspending cases, use of special leave) with performance management and service productivity.
4. The Task and Finish Group reported back on its work to fully understand the impact of the third lockdown in January, to remove any optimism bias and to influence the delivery of a coherent phase three Covid plan (phase one: March to October 2020 - focusing on quick adaptation to home working and significant loss of staff productivity and efficiency; phase two: October planning - building a set of assumptions into Business Planning, reflecting improvements seen since the summer and anticipating effects of the pandemic beginning to ease; and phase three: New expectations from January 2021 - reconsidering the assumptions to reflect the new national lockdown and the ongoing impact into 21/22).
5. In identifying that the lower attrition rate and investigator productivity are the two critical factors on performance delivery, and in scenario testing based on best case, worst case and expected scenarios, the Task and Finish Group is now more confident about the revised forecast and expected scenarios. In essence the model is robust, the Group is confident it works and it has been used well.
6. The Task and Finish Group particularly identified the differential in performance across staff and was reassured by the Executive’s commitment to addressing this.

<u>Assurances being sought:</u>

7. A Covid Plan will now be worked on by the new Chief Ombudsman and Chief Operating Officer and this will include a number of longer term decisions which will come back to the Board for agreement.
8. The Executive committed to consider all of the points raised by the Task and Finish Group in revising the Business Plan and Budget, taking account of them alongside the feedback received from the consultation exercise. There is now a narrow but important window of opportunity to make the most of the more rigorous modelling system to further test and question what the next two years could and should look like, including what this means for the pacing of

performance improvement and the balance of investment being requested across the two years.

People and Leadership

<u>The overview:</u> *The delivery of the People Plan is fundamental to the delivery of the recovery plan and the Board will prioritise its oversight, including through the work of its Remunerations Committee. The focus must remain on changing the way LeO supports, develops and performance manages its staff with a clearer alignment between 'managing by behaviours' with delivering performance outcomes. The Board welcomed the improvements across all nine themes within the most recent Civil Service staff survey, including engagement scores on inclusion and fair treatment. Whilst realistic about the low baseline, not least in relation to comparisons with other ALBs and Civil Service, the Board recognises the positive direction of travel. The Board has been impressed with how quickly both the new Chief Ombudsman and Chief Operating Officer have developed a clear understanding of the critical issues facing the scheme and is grateful to the Executive Team for its ongoing commitment.*

<u>Assurances received:</u>

1. The Board was assured by LeO's overall engagement score of 55% this year in the Civil Service Survey, a 13% increase from last year. The Civil Service benchmark is 66%. Significant improvements have been seen in relation to 'Pride in the Job and the Organisation' which has increased by 21% to 55%;
2. Improvements in all areas have been proportionately higher year on year than that achieved by ALBs and the Civil Service (Improvement on fair treatment scores when compared with 2019 - LeO +20, ALBs +4, Civil Service +3).
3. The Board was assured by the understanding and approach being adopted by the new Chief Operating Officer to addressing differentials and performance variations. Although overall in January 2021 investigator productivity achieved assumed levels, a snapshot of December shows that 21% of investigators closed 7 plus cases but this contrasts with 45% of investigators who are closing a small number of cases. Addressing this, including through ensuring 'Managing by Behaviours' is understood to mean delivery of performance objectives, is a critical part of the wider cultural changes required within LeO.
4. The Board was assured that the workforce is stabilising – attrition rates in December (based on a rolling 12 months) were 10.4% voluntary and 13.8% all

leavers - and that assumptions in the Business Plan for 21/22 adequately take account of the likely increased attrition rates.

Assurances being sought:

5. The Board would like to see reporting against the People Plan more effectively integrated within the Performance Report.
6. The OLC's Remuneration Committee will meet on 11th February when further consideration will be given to reporting back on the People Plan; to alignment between the People Plan and the findings of the staff survey, including how these will inform an organisation-wide Action Plan; and to how the People Plan is owned in the more operational space, and isn't reduced to an HR plan.
7. The Executive Team has now been strengthened by the arrival of the Chief Ombudsman and Chief Operating Officer. Consideration is being given to the appropriate senior structure, given the recent departures of the Head of Governance and Strategy and the impending departure of the Head of Impact, Service Policy and External Affairs. The Chief Ombudsman will provide an update on his thinking at the March Board meeting.

Risk management and financial governance

The overview: The Board continues to be reassured that the basic foundations of good financial governance are being re-established across the organisation. Further scrutiny is now required by the Board's Audit and Risk Committee, which next meets in March, and which will also consider the development and delivery of a risk assurance process and reporting system, with a clearer alignment to risk appetite. Clarity around ARAC's role in the budget setting process has now been agreed by the Board and will be implemented, both for this year and in collating the learning for future years.

1. The HR/OD team have successfully implemented the new payroll provider resulting in no queries from LeO staff in November and December.
2. The Board reviewed the finance report and sought additional information in relation to how any underspend will be managed and the risks around case fee income. The Chair of ARAC will follow up outside the meeting in carrying out a more detailed consideration of the expenditure and income lines, including why IT costs were not accrued.

3. The Board questioned how it can have confidence in the new budget figures, recognising the inaccuracies that had been identified by the incoming Head of Finance and which had informed the interim budget application to the LSB. The Board was assured about the new processes that have been put in place and that the basic foundations of good financial governance continue to be re-established.
4. The Board agreed a proposal from the OLC's ARAC Chair, setting out how ARAC will provide the Board with assurance on the Budget and Business Plan process including that preparation of financial forecasts is robust and that the outcome of different funding scenarios is tested. Sources of confirmation will include pre-emptive assurance – for example, though comment from the Executive and dovetailing with the work completed by the Task and Finish Group – and through post event assurance – for example, through internal audit and feeding into the learning review of the process in advance of next year.

Assurances being sought:

5. The ARAC Chair will liaise with the Business Performance Manager on progressing the assurance actions in relation to the Budget and Business Plan.
6. ARAC will next meet on 10th March and a written report will be produced for the Board meeting on the 31st. This will provide an update on the risk assurance review, what improvement is being delivered through additional staff resource and the appropriate draw down on the support of the internal and external auditors.

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. The OLC Board is committed to working closely with the new Chief Ombudsman and Chief Operating Officer in overseeing necessary delivery and assurance improvements.

Best wishes

Elisabeth Davies
Chair, Office for Legal Complaints