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

Dr Helen Phillips
By email

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Dear Helen

September's Board sessions included a dedicated Risk Workshop, providing the OLC Board with a comprehensive chance to review its risk appetite, and to ensure alignment with risk tolerance and the RAG ratings that will feature on the revised KPIs or performance dashboard. As a result this informs the 'Risk management and financial governance' section of this letter.

The formal Board meeting was a chance to focus on performance reporting in Quarter one, looking at year to date and what this means for confidence levels in delivery for the rest of the year, alongside immersing ourselves in the Strategic, Budget and Business Planning process for 2023/24. Quarter two has seen the start of a significant focus on this process and at the Board meeting we reviewed proposed Strategic Objectives and Business Plan Priorities having previously agreed to develop a one-year strategic framework for the year ahead. This is in order to maintain the current focus on progress towards improved and sustainable levels of service whilst providing a clearer space and time for better informed engagement with stakeholders in 2023/24 on the OLC's longer term vision for the Legal Ombudsman.

In keeping with previous VA letters, 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

<u>The overview:</u> *August was the second highest performance for customer outcomes since modernising LeO began in 2018. The year-to-date closures are 5% short of Business Plan targets, with August performance representing a shortfall of 19 closures on the Business Plan forecast, and the PAP has reduced for a sixth consecutive month and remains ahead of the Business Plan forecast. This keeps LeO ahead of its year end forecast positions for 2022/23, reinforcing the sustained improvement in LeO's performance.*

<u>Assurances received:</u>

1. LeO closed 834 cases in August, the second highest performance for customer outcomes since modernising LeO in 2018; this was despite higher-than expected annual leave taken in July and August which impacted performance in both months, with August having the most working days lost due to annual leave of any month in 2022/23

2. The PAP has reduced for a sixth consecutive month and remains ahead of the Business Plan forecast, standing at 4,931 against a Business Plan forecast of 5071; this represents a 16% reduction year to date and keeps LeO ahead of its year end forecast positions for both 2022/23 and 2023/24.
3. The Front-End Team (FET) and other early closure initiatives continue to outperform target by over 70% and have dramatically increased closure rates and reduced overall customer journey times to 274 days; this is now below LeO's lowest expectation of 325 days for low complexity cases, with average customer journey times for FET at 140 days.
4. To date in Quarter two LeO has closed 1,566 cases which compares with 936 closures in total across all customer initiatives in 2021/22; year-to-date has seen LeO deliver 3,879 closures, 96% of the Business Plan target of 4,032.
5. In the first quality review of service and outcomes in the Front End Team (FET) the Board was pleased and reassured to note LeO's performance levels were over 90%; LeO is now in the process of undertaking a more comprehensive review of FET in Quarter two, ensuring learning is used to improve the work of the FET Team moving forward.
6. The Board supported the initial proposed Strategic Objectives and Business Plan Priorities and outline approach to consultation for 2023/24; the Executive proposals set out three proposed Strategic Objectives, each with a corresponding Business Plan Priority for 2023/24 and building on Business Plan priorities from previous years to ensure delivery of existing commitments on LeO's performance and levels of service.

<u>Additional assurances being sought</u>

1. Whilst in an improving position as LeO approaches mid-year, there is no complacency; LeO Executive will continue to challenge all assumptions through monthly assumptions reviews whilst the Quality and Performance Task and Finish Group will continue to provide the Board space to check its assurance around the accuracy of current trajectories and confidence in future forecasts.
2. The Services Complaints team has been keeping pace with levels of demand but, as numbers of case closures continue to increase to unprecedented levels, it is likely that the number of service complaints will increase proportionately; LeO Executive will be keeping a close eye on levels of demand, particularly relating to FET closures, to ensure that the Board is sighted on any themes or trends that might require intervention.
3. The Legal team continue to provide an invaluable service to operational colleagues, addressing legal challenges and providing constructive feedback around areas where process can be improved; the Board was assured that there hasn't been a significant increase in the number of challenges off the back of the increased FET closures and that this will be included in a revised approach to Legal Updates to the Board in the future.
4. LeO has commissioned a review of customer satisfaction for those customers who have received a service through FET; it's essential that the Board is well versed on customer satisfaction developments and feedback on this will be scheduled in the Board forward planner.

People and Leadership

<u>The overview:</u> Overall attrition continues to be a key focus, reducing slightly across Quarter one. Other focus points include absence management and the priorities of the HR function in the light of the pressure created by the capability and capacity challenges it has continued to face. The search for the new Chief Operating Officer is approaching final stages with appointment expected by the end of the month.

<u>Assurances received:</u>

1. Overall attrition reduced across Quarter one from 26.3% (the highest level seen over the last 12 months) to 24.9% in June; Investigator and Level 1 ombudsman recruitment campaigns have been launched and will help cover internal attrition as LeO continues to promote people through the organisation.

2. There were slight increases in sickness absence month-on-month, culminating in an average of 16.31 days per employee in in June although this has decreased in Quarter two so far; this will be impacted by the new absence management policy, implemented in July, and will be supported by training for managers.
3. Work continues to develop LeO's EDI strategy in line with its People and Business Plans; the reasonable adjustment framework will be ready to launch by the end of September and includes a successful pilot of a senior multi-disciplinary team to support staff in providing quality customer service for customers with complex reasonable adjustments.
4. The search campaign for a new LeO Chief Operating Officer is approaching the final stages with an appointment expected by the end of September.
5. LeO's Cardiff Hub officially opened in August and staff are attending on a hybrid basis with some staff attending daily and a regular presence of Team Leaders, Operations Managers and Executive Team members; the OLC Chair and Chief Ombudsman will be visiting the Cardiff Office before Christmas to engage with staff.
6. Assessment of a proposed Leeds MOJ office space has been completed with a likely decision to move to implement this as a second LeO Hub; the Leeds location aligns well to the profile of the March national recruits and the project team is working closely with operational leads to continue to review and identify lessons from the Cardiff Hub implementation.

<u>Additional assurances being sought:</u>

1. Reducing attrition remains a key focus for LeO and attrition rates will continue to be closely monitored by the Board who, whilst recognising the improvements seen in Quarter two, also acknowledge that a new norm for many organisations in the current market is 'working with churn'.
2. The Board drew a distinction between long term sickness and absence due to other reasons, including mental health; it noted 17 individuals are currently on long -term sick leave and emphasised the importance of effective implementation of the new Absence Management Policy.
3. LeO has now become a member of the Business Disability Forum and is continuing as Stonewall Diversity Champions; the Board will see more of the work of the LeO staff Disability and Carers Network at a pre-Board seminar in June 2023.
4. Noting the resourcing challenges facing the HR Team and taking account of feedback from Board members at previous meetings, the Head of People Strategy and Services will share new plan on priorities for the remainder of the Business Year for RemCo to discuss further at its November meeting.
5. The Board welcomed the update on LeO's Hub Strategy and further clarity on its rationale, its aims and how lessons learned are being factored into LeO's evaluation of the approach to hubs, including LeO's decisions on future hubs; following questions in relation to its longer term impact – including security of tenure of the sites in Cardiff and potentially Leeds - the Board will continue to be regularly updated.

Risk management and financial governance

<u>*The overview*</u>*: "This will not be a routine budget setting process" – this was the message emphasised by the Chief Ombudsman throughout discussion on the budget for 2023/24 where the Board considered a number of budget options, including those taking account of inflation. Alongside this sight was not lost on the 2022/23 budget and how the underspend is being pro-actively monitored and managed. The morning's dedicated risk workshop undertook a review of risk appetite (including overall Risk Appetite Statement), a review of risk tolerances and sought Board views on the read across between risk appetite and risk tolerances and the new performance reporting dashboard and RAG ratings. The significant improvement over the last year in the approach to measuring and managing risk was clearly recognised.*

<u>Assurances received</u>

1. The OLC Board considered initial 2023/24 budget estimates, noting the volatility and ongoing impact of inflation and the cost-of-living crisis and the significant challenges on the preparation of budget estimates for 2023/24; staff pay will be the central challenge in the budget setting process as noted in the letter from the OLC Chair and Chief Ombudsman to the LSB at the start of August.
2. LeO's priority focus on performance improvement and backlog reduction will be maintained along with managing a number of specific pressures (increased quality work associated with increased operational output, requirements on Scheme Rules monitoring and development of further Scheme Rule changes); increases to the baseline have been minimised or accommodated through balancing adjustments to existing budget.
3. Quarter one Finance Report shows actuals came in under budget by £142k; successful Cardiff recruitment earlier this year has helped address this position along with further actions addressing a small emerging underspend from attrition, vacancies and a higher investigator phasing at the start of the year.
4. Controls are currently in place to manage all risks through monthly Business Performance Reviews (BPRs); actions and recommendation from previous GIAA audits continue to be tracked including actions on Recruitment and Payroll.
5. The GIAA 2022/23 Internal Audit Plan continues to be implemented following the completion of the and Budget & Business Planning audit in Quarter 1; fieldwork for the Information Assurance and GDPR Compliance audit is ongoing

<u>Additional assurances being sought:</u>
1. Board members noted significant challenges with process and timing of Cabinet Office and MOJ guidance on public sector pay, which will not be received until early 2023/24 and after the budget approval has been completed.
2. The May YTD actual expenditure is showing a £78k underspend on staff costs; the Board took reassurance that mitigating actions have already been taken such as increasing the numbers of investigators recruited into the Cardiff Hub, nonetheless the quarterly financial reports will be important and will need to be supplemented by pro-actively escalating to Board between reports/meetings where forecasts are out of tolerance or where it's assessed that Board should be made aware.
3. LeO Executive continue to monitor 2022/23 strategic risks and issues on a monthly basis and the latest assessment will be taken to ARAC in early October; the strategic risk on leadership resilience remains high as LeO continues recruitment for a Chief Operating Officer.

Enhanced public reporting

<u>The overview</u>: *A Quarter one performance briefing is now included in a clear section dedicated to performance reporting on LeO's website. The revised approach to performance reporting is ready to share with stakeholders in advance of formal roll out at the end of the calendar year and will be shared with the LSB in a test environment throughout October and following a full demonstration and briefing session at the end of September. Plans for establishing a new consumer representation group are well developed and maintaining stakeholder relations continue to be prioritised by the Chief Ombudsman and OLC Chair, including through visits to LeO's offices in Birmingham.*

<u>Assurances received:</u>
1. An approved new top-level dashboard of performance metrics has been built within Power BI and sits over the agreed data set, which will continue to be provided in parallel with the digital version before being phased out in January 2023; following sharing and support of the OLC Board this is being shared with LSB/MoJ at the end of September with access provided in a test environment to allow all users to view and test the report; final feedback will be incorporated before going live in November with October's performance data.

2. Part of LeO's commitment to enhanced reporting of performance and keeping stakeholders regularly updated on progress, the first LeO quarterly performance report covering Quarter one has been published.
3. On 13 July, LeO welcomed colleagues from the MoJ's Policy team and the Arm's Length Bodies (ALB) Centre of Expertise team to Edward House to provide a more in-depth understanding of LeO's services, demonstrate how LeO has been putting its performance recovery plan into action, and provide 'on the ground' insight into the initiatives LeO has introduced to drive down the backlog and improve the customer experience.
4. Further visits planned for the rest of the year include the Law Society and the new Deputy Director of the MOJ Centre of Expertise team, LeO's primary MOJ contact (the visit with LSB colleagues took place on 21st September).
5. Relationships with the wider consumer, advocacy and advice services sector have continued to be established including through an introductory meeting with Citizens Advice and through progressing plans to develop a new consumer representative group which is intended to ensure that the perspectives of consumers of legal services are considered in strategic and operational planning and decision-making.
6. A similar service provider group is also being developed, which aims to bring together representatives from across the different regulated professions; where possible, this will include firms who are familiar with, or have recently been through LeO's processes.

<u>Additional assurances being sought:</u>

1. The OLC Board will also have access to the dashboard in a test environment throughout October; this will also allow it to review the RAG ratings and ensure they are all consistent with risk appetites and tolerances agreed at the Risk Workshop.

Scheme Rules Review

At our next meeting in October the Board will spend dedicated time focusing on the progress being made on the Scheme Rules review. Recognising the importance the LSB has righty placed on clearly understanding the monitoring framework that the OLC has adopted, the Chief Ombudsman's Executive Report included a stand-alone update on the Scheme Rules Review. A section on this will be included in the VA letter going forward, ensuring assurance levels are drawn to the attention of the LSB. Key points of assurance received by the Board in advance of this include:

1. Three workstreams have been created: Time Limits, 5.7 changes and Ombudsman decision making.
2. Regular cross functional meetings are being held alongside specific subject matter discussions to finalise the project scopes and risks; obvious risks include impact on operational performance changes to process are designed and implemented, and systems and guidance as dual scheme rules are operated for a period.
3. IT are assessing the changes required to LeO's case management system to ensure resilience of the system as required changes are implemented. Key activities include website and CMS development work, operations deliverables (process changes, guidance notes, training, letter updates), internal and external communications strategies and a quality strategy.
4. Main milestones for September include finalising and approving Project Briefs, complete Executive Team sign off on direction and finalise project plan and aligned timescales, deliverables and defined roles and responsibilities.
5. A key dependency is the development of systems to enable capture of EDI and wider monitoring data at the earliest stage to inform the required assurance to the OLC, LSB and wider stakeholders around the impacts of the changes; this will introduce EDI monitoring alongside the online complaint checker at the earliest point in the process in advance of the scheme rules changes going live so LeO has a baseline of data to assess future changes and impacts against.

The summer months have demonstrated the ability of LeO staff to identify and respond to challenges, resulting in positive customer outcomes in August. With improvement now being increasingly embedded across the organisation, the OLC Board is starting the process of developing a longer-term vision for the Legal Ombudsman scheme, with the right mix of confidence and caution, and with an absolute focus on LeO's people. As it does so it will actively share this thinking with the LSB, considering with care the responses to the forthcoming interim strategy consultation, whilst not losing sight of the challenges facing LeO's people as it heads into an inflationary budget setting process.

Best wishes

Elisabeth Davies
Chair, Office for Legal Complaints