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Dr Helen Phillips
By email

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Dear Helen

October's Board meeting was barely four weeks after September's but this timeframe was significant, both in terms of how the intervening weeks have been used to refine the Business Plan and Budget and given that the Board met during Black History Month and LeO's Health, Safety and Wellbeing Month. The Board therefore particularly welcomed its bi-annual EDI update.

The Board received a detailed Scheme Rules review update and, as with the previous VA letter, I have included a section in this letter. I will also send the LSB a separate and fuller update.

This letter therefore focuses on:

1. Performance improvement
2. People and Leadership
3. Risk management and financial governance
4. Enhanced public reporting
5. Scheme Rules review

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**

<u>The overview:</u> *LeO resolved 815 cases in September against a Business Plan forecast of 869, a 94% achievement against the Business Plan. The PAP reduced for a seventh consecutive month with a cumulative 18% reduction year to date and keeping LeO ahead of forecast positions for both 2022/23 and 2023/24.*

<u>Assurances received:</u>
1. LeO resolved 815 cases in September against a Business Plan forecast of 869 (93.6), despite an unplanned loss of 1.75 days due to a global CMS outage and the bank holiday for the funeral of Queen Elizabeth II; if productivity had not been lost the team would have likely achieved 885 closures, 1.84% over Business Plan forecast.
2. The PAP reduced for a seventh consecutive month and is around Business Plan forecast (4,794 against a forecast of 4,802), representing an 18% reduction year to date and keeping LeO ahead of its year end forecast position.
3. The Front-End Team (FET) and other early closure initiatives achieved the highest total to date of 458 closures; customers helped by the FET experienced a 77% shorter journey time than the average for low complexity cases.
4. Relative performance remains strong - Quarter 2 saw LeO resolve 2,381 cases, a 67.5% increase and 960 additional closures over the equivalent period in 2021/22; year to date

has seen LeO deliver 4,694 closures, 95% against its Business Plan forecast of 4,951 and a 55% increase on the corresponding period of in 2021/22.
5. The mid-year report from the Independent Service Complaints Adjudicator (SCA) noted the proportion of complaints escalated to stage 2 has dropped and the level of complaints escalated from stage 2 to stage 3 has remained consistent with 2020/21; two new colleagues will be joining the Service Complaints Team in November.
6. A revised approach to the prioritisation of customer complaints has been launched, ensuring customers with reasonable adjustments or those who need speedier access to LeO's services are dealt with in a timely manner.

<u>Additional assurances being sought</u>
1. LeO expect to make up the variance in Quarter 3 and the last 2 months of Quarter 4, as increased seasonal adjustment projections take effect; this confidence was and will continue to be thoroughly tested by Board who probed in detail the levers on PAP reduction, the importance of internal flexibility, and contingencies and how risks are being addressed; a tight watching brief will be maintained across Quarter 3, with both the October half term and the festive period falling within this period.
2. Board approved the draft Strategy, Budget and Business Plan consultation document, and the draft Budget Acceptance Criteria subject to further tightening and sharpening of messages in both documents and recognising the significant challenges around salary concerns; consultation is due to open on 2 November and will close on 14 December following stakeholder and internal engagements.
3. EDI data will benchmark LeO's complainants against legal service users and will be used to ascertain if there are any differences in the outcomes (resolution stage and satisfaction levels) for complainants from groups with protected characteristics, along with understanding factors which may contribute to any outcome differences; Board will see an annual outcomes analysis which will be used to inform targeted research and EDI metrics.
4. LeO has identified issues in some FET cases which relate to the way outcomes are reached, with performance down from the earlier analysis undertaken in Quarter 1; whilst in each case LeO has been satisfied that the outcome reached was fair and reasonable on the facts, not needing to reopen any cases, there have been issues identified with the process followed in a small number of cases which Board will continue to assess.
5. The SCA's report highlighted the importance of managing the expectations of customers who are using the service complaints process as a means of trying to overturn an unfavourable outcome to a legal service investigation; more work will be undertaken on addressing customer's expectations, ensuring that they understand the scope and limitations of the service complaints policy.
6. Board was updated on the Executive's commissioning of an independent review of quality assurance across the redress sector, providing a benchmark for the efficacy and proportionality of LeO's own framework.

**People and Leadership**

*<u>The overview:</u> Overall attrition continues to be a key focus, reducing further across Quarter 1 and still reflecting non regretted attrition relating to performance concerns. Sickness absence has reduced significantly showing the benefit of the work invested in focused support on complex employee cases, many of which had absence as a factor, and the absence management policy implemented in July. Significant recruitment activity has resulted in much-needed appointments to three of the six roles in the HR function and Dave Peckham has been appointed as LeO's new Head of Operations.*

<u>Assurances received:</u>
1. Investigator attrition continues to remain high, whilst reducing across Quarter 2 from 25.8% in July to 24.1% in September, continuing the reduced trend across Quarter 1.

2. Quarter 2 saw a significant reduction in sickness absence across the period, from an average of 16.2 days per employee in July to the lowest figure yet of 14.27 days in September, and the number of days lost to sickness absence during the quarter has fallen by two-thirds (283.5 days lost in July, 93.5 days lost in September); long-term sickness dropped from 41.3% in July to 22.5% of all sickness in September and the cost of sickness absence fell significantly (£34,181 in July to £12,803 in September).
3. September has seen significant recruitment activity across both the Operational and Corporate areas and LeO is at the final stages of the selection process for a large cohort of investigators, 10 Level 1 Ombudsman and two Team Leader secondments; appointments have also been made to three of the six roles within the new HR structure, and within the Legal team, in addition to the appointment of the Head of Operations, Transformation and Business Intelligence for 18 months.
4. Significant progress has been made across all of LeO's EDI Strategy and supporting Equality Priority Objectives; the focus on building an inclusive culture continues with a many activities and events taking place or planned in September and October with Staff Networks to promote awareness of important cultural, religious and health related events.
5. Attention continues to be paid to increasing the People Survey response rate, 53% on the day of the Board (subsequently increased to 58%)

<u>Additional assurances being sought:</u>
1. Board gave detailed consideration to what LeO is doing to reduce attrition, including looking at LeO's total rewards strategy and incentives to stay and the importance of career development and internal appointments; recognising that some attrition is welcome, rates will continue to be closely monitored by the Board, as the organisation works towards achieving its target of 19%.
2. A decision had been made to further increase the numbers of operational staff to be recruited in Quarter 3 from the live recruitment round but the recruitment campaign will not deliver the number of candidates required by LeO, with the competitive external recruitment market significantly affecting attendance at interview and LeO offering 27 investigator posts, seven below that aimed for (potentially 11 below once offers are accepted and part time hours requests are processed); the Board was assured that this will not affect performance, that a knock on effect on closures is not anticipated and that smaller recruitment rounds will be planned next year and as needed.
3. Board was assured that appointing to the EDI Manager role will be prioritised, with consideration being given to the option of attaching more resource by making two appointments – one focusing on LeO's people and the other on LeO's customers.
4. No decision has yet been made on the assessment of a second Hub in Leeds; consideration continues to be given to this and Board will be kept fully informed, including looking at differences in performance across the different Hubs; the Legal team also continues to provide invaluable support and advice around wider strategic initiatives like LeO's hub strategy and the possibility of outsourcing investigatory work to a third party.

**Risk management and financial governance**

*<u>The overview</u>: The finance paper shows a forecast within £16k but, since drafted, LeO's Executive has responded quickly to changes in the recruitment market and its likely impact on the forecast position at the mid-year point, which is nearer a £99k to £145k underspend. The Executive's focus is on managing the increased underspend as LeO enters Quarter 3 alongside recognising 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. The risk appetite statement, discussed at last month's Risk Workshop, was brought back to the Board in revised format and approved.*

<u>Assurances received</u>
1. Two of the Strategic Issues and Risks have reduced in scoring: namely those relating to the backlog and operational performance with reductions in the risk rating reflecting the

sustained period of strong performance and decreases in the PAP; the Strategic Issue relating to attraction and attrition retains its high score.
2. Following September's risk workshop an updated risk appetite statement was approved by Board, accompanied by a revised suite of key performance metrics and risk tolerances; an updated Risk Management Framework Policy was also approved.
3. Actions and recommendation from previous GIAA audits continue to be tracked and implemented; significant progress has been made in closing out actions from the Budget and Business Plan Audit including progressing a review of the Tripartite Protocol.
4. The ARAC Chair reported a positive meeting earlier in October, supported by strong and clear papers including a risk dashboard with clear links to the Board's performance dashboard, the substantial rating set out in the GIAA Audit on Business Planning processes and positive feedback received via the External Auditor's letter.

Additional assurances being sought:
1. Significant focus has been undertaken on delivering a balanced budget leading to the decision to increase the numbers of operational staff recruited in Quarter 3 from the live recruitment round; the forecast in the finance paper shows a forecast within £16k of budget but it has emerged that the recruitment campaign will not deliver the number of candidates planned due to the competitive external recruitment market; depending on the final FTE number appointed, this will reduce the reported forecast resulting in a £99k to £145k forecast underspend (0.65% to 0.95% variance against budget); whilst this is within the 1% tolerance variance for ALBs expected by the MoJ the underspend is being pro-actively monitored and discussed with the ARAC Chair; the LSB Head of Finance has been informed of the tolerance variance expected by the MoJ.
2. GIAA's Information Assurance & GDPR Compliance Audit has been completed with a final report confirming a 'Limited' opinion and which was raised and discussed at the October meeting of ARAC; compliance weaknesses are largely behind the issues identified and recommendations made, with the framework and governance in this area being generally satisfactory; management actions have been agreed and will be monitored.

**Enhanced public reporting**

*The overview: A Quarter two performance briefing will now be included in a clear section dedicated to performance reporting on LeO's website. The revised approach to performance reporting has been shared with the LSB and MoJ in a test environment and in advance of formal roll out at the end of the calendar year. Progress has been made on establishing dedicated service provider and consumer reference groups to ensure the views of both groups are taken into account in decisions/strategic planning around the service.*

Assurances received:
1. The move of the offline reporting process for the Agreed Data Set into the automated digital platform of Power BI has been completed, reshaping the information that LeO presents on performance with a new approved top-level dashboard of performance metrics sitting over the new digital agreed data set.
2. The first Service Provider forum meeting was attended by a cross representative group of several organisations who are familiar with LeO's processes; an overview of LeO's journey was provided, as well as a focus on the Scheme Rules changes that are being made, proposals around the Business Plan and Strategy for 2023/24, and reflections on the learning and insight that is being delivered to the profession; feedback on the changes that LeO has implemented so far was overwhelmingly positive, with attendees agreeing that there has been a marked improvement in the relationship they now have.
3. The sixth meeting of the Challenge and Advisory Group reflected a clear change in where LeO is as an organisation; stabilisation of performance meant that the meeting focused much less on scrutinising performance and operational processes, and more on what LeO will look like beyond its recovery plans; the Group were presented with the draft vision,

mission and strategic objectives for the 2023/24 Business Plan and Strategy, an update on the development of a Power BI platform for business reporting, a reflection on the impact the front-end initiatives are having on the PAP and an update on the Scheme Rules project.
4. LeO is participating in the SRA's external reference group which is looking to understand the underlying reasons for the overrepresentation of Black, Asian and minority ethnic groups in the SRA's enforcement work; recommendations arising from the research will help the SRA take steps to mitigate patterns in overreporting that have been ongoing and repeated widely in other sectors; there are opportunities for LeO's contribution to extend understanding, particularly around complainant data and themes across topic modelling.
5. The OLC Chair and Chief Ombudsman have continued to engage with the LSB and MoJ over the last four weeks; meetings have included a regular OLC/LSB 4 way meeting, discussion on the LSB's consumer redress research, the Q2 Business Assurance Meeting with the MoJ at the beginning of October and the OLC Chair and Chief Ombudsman attending the LSB's Reshaping Legal Services Conference.

Additional assurances being sought:
1. The OLC Board will continue to access the performance dashboard in a test environment throughout November, allowing 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**

*The overview: Work has now been completed to outline a project timeline, providing sufficient resilience to deal with unexpected developments or obstacles, and with the launch date confirmed as 3rd of April 2023. The agreed approach is to complete the specific area of work for all projects at the same time ie. all CMS development work for the Time limits, 5.7 changes, Ombudsman Decision and SR4 projects will be completed at one time as will the associated testing and deployment.*

Assurances received:
1. Progress continues to be made against LeO's plan to introduce the new Scheme Rules at the start of the new financial year; all of the key new Rules have been fully scoped and work is starting on the development of the case management system and building guidance and training to support the new rules and processes.
2. Significant work has been undertaken to ensure LeO is in a position to capture EDI data at the earliest possible stage in the process so the impacts of changes on all customers can be monitored and evaluated; LeO is working with an external provider to make necessary website changes so that data can be captured at the first point of contact with LeO; such data will start to be captured in advance of the new Rules going live to provide a comparative baseline.
3. An internal and external communication and engagement strategy has been developed, making sure all stakeholders are pro-actively communicated with and understand what is being done and when along with the likely impact of the changes; plans were discussed at length with the Challenge and Advisory Group and the newly formed Service Provider Forum with a positive reception from both Groups.

Additional assurances being sought:
1. Board probed the confidence levels behind the 10% reduction in case holdings now incorporated within the 2023/24 Business plan and taking account of the Scheme Rule changes; this was based on forecast modelling and cautious estimates and there were a number of variable factors which were difficult to predict within these, including, for example, the unknown impact on availability of opportunities for early resolution closures; there was recognition from the LeO Executive that this will need to be closely monitored.
2. There was extensive discussion with the Board on the need for active communication with the sector along with how the transitionary period will be handled, concern over the time

limit changes, and the risk of under-estimating the degree and complexity of change required; discussion showed the importance and value of ongoing scrutiny and the absolute commitment of both the OLC and LeO to ensuring that no group is disproportionately or unfairly impacted and consumers are not deprived of access to justice.

The papers were comprehensive and a key theme was the constant learning, adaptation and willingness to change that is now required of all in the organisation, as they deal with a level of uncertainty that is fast becoming the norm and as the Board deals with the challenges facing LeO's people as it heads into an inflationary budget setting process. This organisational-wide agility will clearly need to be maintained and embraced in order for LeO's customers to continue to receive an improving and acceptable service across 2022/23.

Best wishes

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