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Dr Helen Phillips
By email

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Dear Helen

The OLC Board met in January when our primary focus was on carrying out a detailed scrutiny of LeO's trajectories, both for the remaining quarter of 2022/23 and for 2023/24 and the new Business Plan and Budget.

Since December's Board meeting the Board's Performance Task and Finish Group has met twice. The Group recognise the improvement in the trajectory, when compared to previous years; that LeO is in a very different position to this time last year; and that it's important to not lose sight of the progress. Against this backdrop the question asked by the Group is why the trajectories were previously wrong and what can be done to minimise and rectify this in the future.

What matters is ensuring the Board, and our stakeholders, can have confidence in the forecasting. This will mean that in the future the Executive can celebrate and recognise what it has achieved – particularly with the average customer journey time now reducing by 100 days across 2022/23 - and not need to focus on what it has not - including those risks over which it now has increasingly limited control. This is not as a reason to fail to take responsibility but rather as a spur to better focus on those issues within its control. The Board recognises the distinction between ambition, targets and forecasting but also acknowledges that LeO will be held to account for how it delivers against its forecasts and must therefore strip out any optimism-bias, presenting a rescrutinised trajectory for 2023/24 that balances realism with ambition and a commitment to best meeting customer needs.

Reflecting the revised Business Plan and Budget that will shortly be shared with the LSB, this letter 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

The overview: There has been continued improvement on the last year across December but the focus must be on Business Plan forecasts and a balanced approach to reporting this along with yearly comparisons; it is the forecasts that set the expectations of the OLC Board and key stakeholders such as the LSB. December's performance reduced as anticipated over the festive season although case closures came in above seasonally adjusted expectations: 567 cases resolved against a seasonally adjusted forecast of 527. Improvements continue to be made to the overall customer experience with average customer journey times, including all cases resolved by the Front End Team (FET), reducing by 100 days across 2022/23 and improved quality and customer satisfaction levels.

Assurances received:

1. At the end of Q3 LeO has resolved 6,880 cases, 91% of the 2022/23 forecast, with the latest modelling showing an end year forecast position of between 91% and 93%.
2. There is clear disappointment at this reduced forecast position; although overall progress continues to show a significantly improved picture with LeO output increased by 50% on the equivalent period in 2021/22 and more resolutions delivered by the end of the Q3 than was achieved in the whole of 2021/22 (6576).
3. Customer journey time is improving and this must not be overlooked; LeO is speeding up the journey and getting people into the PAP quicker and the average case is being closed in 87 days once LeO has all the information needed; the PAP has seen a 24% reduction over the course of the year to date and whilst higher than the Business Plan forecast for this point a far higher proportion of these cases are newly received complaints and around 860 are being actively worked on by FET; rather than waiting in pre-assessment before an active LeO intervention in their case, most of these 860 customers can expect, on average, to see resolutions in around 60 days.
4. Q3 quality reviews and customer satisfaction surveys have shown significant positive improvement in the scoring for outcomes (83 and 95%), service (94 and 100%) and customer satisfaction (91 and 92%) in FET.
5. Operational focus on reallocations (cases where an Investigator has left LeO) and reducing detriment to customers wherever possible has seen reallocation backlogs reduce from a peak of 250 cases waiting in excess of 4 months to 9 cases waiting less than a week for a new Investigator.
6. LeO continues to respond to internal feedback on its process efficiency and effectiveness resulting in changes to the Investigator quality checking process and the removal of unnecessary administrative steps in processes; changes which were made as a result of input from operational staff.
7. Board and LeO had lengthy and detailed discussions on the trajectories including in the context of attrition; in the context of Scheme Rules, Board members asked the Executive to give further consideration to two options: That demand is assumed to be static for a longer period (than just Q1); and that demand is assumed to reduce at a lower than previously assumed rate, for example by 10% rather than 15% (in the remaining Qs of the year), to allow for more generous application of discretion in the early stages; in the context of sickness, the Board questioned whether this year's actual should be categorised as being the worst-case scenario next year; and in the case of Contingency, the Board questioned where this had been applied, guarding against the risk of double counting.
8. Detailed questioning of confidence in the 91-93% positioning for year-end reaffirmed the need to look at forecasts across the quarter rather than individual monthly variations.
9. Budget and Business Plan was welcomed for its focus and the improvement in the quality of its drafting and accessibility.

Additional assurances being sought:

1. Board emphasised the importance of a wider sense check on the trajectories, checking that they made 'sense' when considered in the round and that any optimism bias is stripped out; further consideration will be given to how the numbers are presented, recognising the sensitive balancing act between forecasting a trajectory that is sufficiently realistic and robust for the Board to support it with one that is sufficiently ambitious.
2. Further consideration will be given to future reporting, ensuring a clear focus on Customer Journey time, including how this can add to what is currently shared around average time; consideration will be given to including the new performance dashboard in the Board papers, currently shared every month, and bringing all the key indicators on to one page.
3. Chief Ombudsman reiterated his commitment to outsourcing as a potential future contingency and reiterated that the current legislative framework does not allow for this and that this would be dependent on coming up with a viable legal and risk-sharing solution; this will be looked at again with the LSB and the MoJ in the light of the new OLC Strategy.
4. Business Plan and Budget will now be reviewed for consistency with the rescrutinised trajectories.

People and Leadership

<u>The overview:</u> Significant progress on people culture and the steps being made are evidenced through the results of the annual Civil Service People Survey which has returned significantly improved increases in ratings across all 9 core themes, with the exception of pay and benefits which now stands out even more starkly and demonstrates the significance for staff of uncompetitive salaries and the risks for LeO. Reflecting a commitment to its people, and recognising the cost-of-living crisis, LeO is looking at those factors outside its control <u>not</u> as a reason to fail to take responsibility but rather as a spur to better focus on those issues within its control. The organisational focus remains on attrition, including learning from what has specifically contributed to LeO's falling levels of attrition in recent months.

<u>Assurances received:</u>

1. Recruitment activity has continued across Operational and Corporate areas building on December's Board update on key Investigator, Ombudsman and Operations Manager recruitment and the appointment of three permanent roles within the new HR team; a number of posts remain live or at screening or interview stage across HR, EDI, ICT, project management and Legal.
2. LeO continued to make significant progress on a wide range of key People Strategy activities across Q3, with the ongoing roll out of LeO's Leadership Development Programme, implementation of a new Personal Development Review process, comprehensive review of recruitment and payroll policies and progression of the cross-organisation pay benchmarking exercise.
3. Annual Civil Service People Survey has returned significantly improved and positive results across all areas with the exception of 'pay and benefits', now shining a strong spotlight on the issues that are beyond LeO's control and further emphasising the potential impact of a pay rise including on recruitment and attrition rates; the 62% response rate compares favourably to the response rates of others whilst not being viewed with any complacency; the focus is on reporting back to staff and sharing with the Staff Networks and Staff Council; OLC's RemCo will consider in more detail in March.
4. Sickness absence levels have continued to reduce for the sixth consecutive month with a sustained reduction over the course of Q2 and Q3; sickness levels fell to 11.92 days in December, the lowest figure yet over the rolling 12-month period.

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

1. Following detailed consideration of attrition Board acknowledged that Q3 also saw a continued reduction in attrition rates across all roles, having now fallen steadily for 5 consecutive months; whilst Investigator attrition showed slight improvement, falling on a month-by-month basis across Q3 , OLC Board and LeO recognise that attrition clearly continues to be a significant challenge, as it does for many other organisations.
2. Board sought assurance that the appointment of the interim EDI Manager is progressing with a clear focus on the importance of both the internal (LeO's people) and external (LeO's customers) and the dual perspective of LeO's future commitment to EDI.

Risk management and financial governance

<u>The overview</u>: A rigorous process is followed every month to update the forecasting with the focus on reducing the underspend which is currently at 1.2% and therefore 0.2% outside of the MoJ's tolerance. At January's ARAC meeting positive progress was highlighted, reinforced by the subsequent inclusion of the OLC's governance section of its Annual Report in PWC's examples of good practise. The significantly shortened timeframe for development and publication of the Annual Report and Accounts was highlighted and the Board will come back to this at its February workshop, recognising the need to balance the compressed timescale with full Board scrutiny.

<u>Assurances received</u>

1. A number of recent unplanned staff movements have led to the underspend moving out of tolerance by £15k (0.2%) with the latest forecast of £168k; the Executive continue to explore and implement all appropriate measures to drive this down whilst recognising that there are limited opportunities to deliver in the timescales.
2. Executive Team completed a full review of LeO's Strategic Risks and Issues in December with some risks changing in score; Strategic Issue 01 (Pre-Assessment Pool) and Strategic Risk 01 (Performance) increased in score due to the emerging performance position; Strategic Risk 02 (Transformational Change) and Strategic Risk 06 (Budget Variance) decreased in score, though this last risk on budget variance will be revised in January in light of the latest forecast underspend position.
3. GIAA's 2023/24 Audit Plan was submitted to the January meeting of ARAC with proposed areas for audit including management reporting, casework quality, reputation & stakeholder engagement and grievances and staff complaints.
4. Planning for the Annual Report and Account process commenced in December, working within a significantly shortened timeframe for development and publication in 2023/24; updates outlined the progress made so far against last year's Lessons Learned, and the key message flow proposed for the report.
5. Q3 year-to-date case fee income is £313k under budget, reflecting that the increased closures achieved have largely come from early resolution which do not attract a case fee.
6. The final report from the Risk Management internal Audit received a moderate rating along with positive feedback on the significant progress and improvement LeO has made in this area since the previous audit in 2019; the Assurance Mapping Document was deemed an exemplar by GIAA.

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

1. Board asked that further consideration be given to whether the increase in levy, stemming from the shortfall in case fee income, would be reduced as a result of the forecast underspend; the same consideration could also be given to how the income from increased interest is presented.
2. February's workshop will offer Board a further opportunity to provide early feedback on messaging, tone and narrative of the Annual Report and Accounts.

Enhanced public reporting

<u>The overview</u>: The pro-active communication of the Scheme Rule changes has remained a priority. Engagement with LeO's stakeholders has continued with visits hosted at LeO's Birmingham office for the MoJ's new Head of ALBs and the Law Society's current President. Both visits gave staff the chance to respond to questions and demonstrate first-hand the progress being made, alongside reiterating the challenges of those factors which are beyond LeO's control.

<u>Assurances received:</u>

1. LeO and the OLC welcomed the MoJ's new Head of the ALB Centre of Expertise, David West, to Edward House; this visit provided LeO staff with the opportunity to demonstrate first-hand LeO's recovery and improvement journey with sessions also delivered on the changes to the Scheme Rules, learning and insight and feeding back to the profession.
2. President of the Law Society, Lubna Shuja, was also welcomed in January with a focus on messaging to the provider sector around FET and early resolution; on quality and customer satisfaction with the FET; and on the budget.
3. Learning and Insight work has continued to focus on communicating the Scheme Rules changes to the profession and consumers with a number of articles published in legal profession magazines; a communication plan is in place for continuing Scheme Rules engagement until go-live in April.
4. Positive feedback has continued on the automated digital platform of Power BI and the OLC and LeO's commitment to transparency and sharing performance metrics.
5. External events coming up include a visit to Ombudsman Services; SRA event on launch of Cardiff office and Law Society Risk and Compliance Conference where the focus will be on the Scheme Rule changes.

Additional assurances being sought:

1. Publicising and sharing the value customers place on the increased speed and efficiency of early resolution will be explored, given this is a data-light area.

Scheme Rules Review

The overview: Implementation of the revised Scheme Rules remains on track for go live in April 2023. The primary objective for the programme has been to finalise the scope for the four distinct projects, moving the programme into the delivery phase: Time Limits; 5.7 Changes; Ombudsman Decision; Minor Changes.

Assurances received:

1. Board carried out extensive questioning on how the transition to the new Scheme Rules will be managed - including emphasising that the change was not about reducing the ability of legitimate complainants to bring their case to LeO, and the need to balance over assuming the impact of change with the amount of discretion that will likely need to be shown in the earlier half of the year.
2. Enhancements required to LeO's case management system, to enable use and tracking of the new scheme have now been fully developed and successfully tested; Q4 will see training of staff on the use of the new rules and on the application of Ombudsman discretion.
3. Maintenance of quality standards is absolutely paramount; required changes to the existing quality assurance framework have been scoped out and will be finalised through Q4 to ensure that they can be deployed from and operate successfully alongside existing metrics.
4. Work has progressed to outline the reporting requirements for the Scheme Rule programme and Board considered detailed proposals for both internal reporting for quality and impact assessment and external reporting for key stakeholders.
5. Of critical importance is the monitoring of any EDI impact of the Rules changes; the collection of EDI data much earlier in the process than currently will enable LeO to report on the impact of the changes at the earliest possible opportunity.
6. Internal and external communications strategy work is ongoing and LeO has communicated these changes over a number of months, including through a communication sent by regulators on LeO's behalf which has been published on LeO's website; LeO has also attended a number of conferences and events across the sector to discuss the changes.
7. Communication will continue up to go-live, including two bitesize courses on the Scheme Rules changes in February, a social media awareness campaign, further engagement with consumer groups alongside a range of articles, press releases and events.

Additional assurances being sought:

1. As the reporting suite for both internal and external reporting is finalised, Board will continue to be informed through out of Committee updates;

This was another robust Board meeting, characterised by thorough questioning from the Board and a willingness on the part of the LeO Executive to be scrutinised, responding directly or taking points away for further exploration. The result will be the submission of a revised trajectory and Business Plan to the LSB that diligently seeks to establish a new balance between realism and ambition, openly taking account of the cost-of-living challenge of uncompetitive salaries and demonstrating the ongoing impact on the improving customer journey time.

Best wishes

Elisabeth Davies
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