

Dr Helen Phillips
Chair, Legal Services Board
3rd Floor
The Rookery
2 Dyott Street
London
WC1A 1DE

6 October 2020

Dear Helen

September was a significant Board meeting for the OLC. At this meeting, and in the weeks leading up to it, the OLC Board has been comprehensively briefed on the extent of the challenges facing the Legal Ombudsman along with the importance of developing and agreeing an improvement trajectory in which we can all be confident.

Previous assurance letters have focused on

- (i) Confidence in performance improvement including responding to COVID-19
- (ii) Confidence in the modelling system
- (iii) Confidence in operational leadership, capability and capacity
- (iv) Confidence in ability to respond to the people issues

The Board has received assurance across all four of these categories. Performance improvement must be addressed first and on a stand-alone basis, recognising that this is the most pressing issue for the OLC, the LSB and of course for the customers of the Legal Ombudsman scheme. Our Board meeting also reinforced that categories (ii) to (iv) are co-dependencies and that confidence in these issues is also fundamental to LeO's ability to delivery recovery.

(i) Confidence in performance improvement including responding to COVID-19

LeO's approach to recovery can be summarised as:

1. The OLC Board continues to support a staged approach to recovery that explicitly addresses the reasons for underlying performance issues and based on a detailed understanding of the risks facing the organisation. It has agreed an interim recovery position with a commitment to overseeing the development of further improvements.
2. The OLC Board is clear that whilst Covid-19 has significantly impacted on LeO's performance, the problems are pre-existing.
3. A revised and strengthened LeO Executive Team is now stabilising the organisation in advance of the new Chief Ombudsman and Chief Operating Officer starting which will be by the end of the calendar year.

4. Their focus is on delivering steady and sustainable improvement for the rest of this financial year and following repeated years of underinvestment in LeO's people, failure to prioritise the quality of management and an approach which has focused on changing the process in the short term rather than building capability in the long term.
5. A clear set of performance assumptions has been developed, which demonstrate a steady improvement trajectory through to the end of the financial year. Productivity per investigator will reach last year's average by the end of March 2021 with the crucial difference being a more stable organisation in a position to continue on an improvement trajectory.
6. The OLC Board has supported an incremental approach to improvement on an interim basis and in order to address head on the fragility of the organisation, recognising the risks created by the standstill budget and the significant change in leadership over the last three months. The Board has supported an interim budget variation application to the LSB, safeguarding performance recovery and longer term improvement with expenditure to support the resilience and capacity of the senior leadership function now.
7. Whilst this incremental approach will form the core foundation for the recovery plan the OLC Board is clear that much more needs to be done and further improvements must be sought in the short term. The agreed improvement trajectory will result in 4,968 cases in the PAP by the end of the year. This is not acceptable, to neither the OLC Board nor to LeO's customers and a pressing priority for performance must be to improve the experience for customers who are waiting in the PAP for an investigation to begin.
8. LeO's Executive has developed further improvements. These are:
 - a. Redeployment of Ombudsman resource following a review of the Quality and Feedback model. In the short term this will impact on 3-5% of cases by enabling:
 - i. Quick win cases to be highlighted by the General Enquiries Team - cases will be taken from the PAP, and early resolution will be sought, either by agreement with the parties, or by issuing dismissal letters as appropriate.
 - ii. Some high complexity cases to be targeted and taken out of the PAP – this will address a large number of aged files at the front of the queue and the customers who have been waiting too long for their case to be taken.
 - b. Further innovative mitigations are also currently being scoped and include pursuing:
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
9. These interventions will be part of the recovery plan but further work is now needed on probing whether they can deliver improvement at pace and at sufficient scale. This will be consistently questioned, scrutinised and monitored by the OLC Board.
10. The 2021 to 2022 budget and planning process, supported by the new Chief Ombudsman and Chief Operating Officer, will explicitly engage the sector in what will be required to further upscale recovery improvement after the financial year

end. Pre-consultation meetings with stakeholders have started and the OLC Chair will be writing to all at the beginning of October.

As with previous letters I have included in the annex the performance paper that the Board considered in detail and which includes more specific performance information in relation to Covid-19.

(ii) Confidence in the modelling system

The OLC's Quality and Performance Task & Finish Group has worked at pace and with diligence to assure the Board with regard to forecasting. Board took assurance of the validity and accuracy of the current assumptions underlying LeO's performance - which include in such areas as attrition, long term sickness, Covid related special leave, and closures per established Investigator - whilst taking account of the following:

- **Current Model** - We have reached a point where we are satisfied and confident that the model is robust and works in terms of providing a forecast resourcing requirement against an agreed set of assumptions. However, it has limitations and should be noted that the model is demand and productive assumption driven, does not model the detail of the processes, and is not dynamic. Any deviations of performance from assumed levels (Covid or otherwise) quickly renders the forecast inaccurate.
- **Forecasting Tool** - The model is static and does not easily work as a forecasting tool. It can be re-run at regular intervals to produce updated static forecasts but it does not easily translate in to a forecasting model that dynamically updates as budgets and forecasts are updated with actual data.
- **Commonly agreed dataset** - Good progress has been made and the shape of a common dataset has been agreed with the LSB and MoJ and which will be shared on a monthly basis.
- **KPIs** - We have made good progress in adopting a "Balanced Scorecard" type solution for the Board level KPIs. This has resulted in some increased specificity of measurement of existing metrics plus the addition of new metrics in order to provide a true balanced picture of overall performance.
- **End to End KPI** - This specific metric has been the source of much debate at OLC Board and also with the MoJ and LSB. We have now agreed a proposed definition for this metric and also how we believe this metric will develop over future years as data capture becomes better.

The OLC Board focused its discussions on KPIs, considering such questions as:

- What constitutes an acceptable level of service provision and is therefore a long term target? (or the 'gap to good').
- What was the original and pre-Covid target for the 20/21 business plan?
- What is the target taking account of Covid?

The Executive has reviewed and collated answers to these questions which came back to the OLC Board on 5th October, and before being published externally.

The 5th October is when the Board met to specifically focus on budget and planning for 21/22 and in advance of bringing early and emerging ideas to the LSB on the 12th October

and before going out to wider consultation. This is part of the new and more rigorous approach to budgeting and planning and which has been put in place following the Budget Learning Review.

(iii) Confidence in operational leadership, capability and capacity

The Board was assured by the focus and commitment of the restructured Executive Team in the last two months on regaining a grip across the business. This has been demonstrated operationally through the work on performance recovery and the identification of underlying performance issues; staffing-wise through the ongoing implementation of LeO's People Plan and an integrated approach to performance and people management; financially through a reforecast budget and interim budget application; and governance-wise through the improved approach to planning and budget submission for 21/22.

Whilst impressed with the commitment of the Executive Team the OLC Board acknowledges the burden and risk of fragility, not least in this interim period and until the arrival of the new Chief Operating Officer and Chief Ombudsman. Both of the new leadership roles will be in place by the end of the calendar year but there is no doubt that this interim period presents a risk for the organisation.

(iv) Confidence in ability to respond to the people issues

The Board was assured of the ongoing implementation of the recommendations of the Independent Review and its alignment with LeO's People Plan. Changes have been made within the HR function and a new interim Head of Organisational Design and People Strategy has brought additional capacity and capability along with the discipline of ensuring LeO's people strategy speaks to operational performance.

September's was a full and challenging Board meeting Helen. The Board gave a clear message around its support for the work the Executive Team has carried out in stabilising the organisation. In agreeing to support an interim recovery plan, and in advance of the new Chief Operating Officer and Chief Ombudsman taking up post, it was clear that this will not yet deliver sufficient improvements for LeO's customers. Now that the core performance trajectory has been established priority must continue to be given to those changes that will have an impact in the shorter term and over the next financial year.

With best wishes



Elisabeth Davies

Chair, Office for Legal Complaints