

To:	Legal Services Board	
Date of Meeting:	25 March 2015	Item: Paper (15) 09

Title:	Office for Legal Complaints (OLC) Budget Approval	
Workstream(s):	N/A	
Introduced by:	Karen Silcock, OLC Member and Ian Brack, OLC Chief Executive (interim)	
Author:	Julie Myers, Corporate Director Julie.myers@legalservicesboard.org.uk	
Status:	Official	

Summary:

The Legal Services Act 2007 requires the LSB to approve the annual budget of the OLC.

This paper presents the OLC's budget submission for financial year 2015/16 (see **Annex A**). It seeks the Board's approval to a total budget for 2015/16 of **£14.84m** (£12.21m for the legal complaints jurisdiction and £2.63m for the claims management complaints jurisdiction).

The OLC Board have approved this budget and the Ministry of Justice (MoJ) have also indicated that they are content.

Attached at **Annex B**, and for information only, is a **working draft** of OLC's strategy 2015-17 and business plan 2015/16. This will be reviewed and approved by the incoming Board and will not be published pre-purdah.

Karen Silcock (OLC Board Member and OLC Audit and Risk Committee Chair) and Ian Brack (Interim Chief Executive) will attend to present this item.

Recommendation(s):

The Board is invited to:

- (1) Review the OLC's submission on its budget for 2015/16;
- (2) Approve the budget.

Risks and mitigations

Financial:	OLC has its own Accounting Officer and is required to comply with Managing Public Money requirements. MoJ as sponsoring Department is responsible for financial oversight in year. MoJ also provide Grant In Aid to OLC in respect of the claims management complaints jurisdiction and have agreed the size of that element of the budget.
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Legal:	N/A
Reputational:	Qualification of OLC's 2013/14 Accounts and any consequences for 2014/15's Accounts presents a degree of reputational risk to LSB bearing in mind our statutory responsibilities to the OLC. We have been clear throughout the process that the LSB has no remit or authority to intercede in matters relating to ongoing financial management where meaningful oversight must be provided by the sponsoring Department
Resource:	N/A

Consultation	Yes	No	Who / why?
Board Members:	✓		Members of the LSB Audit and Risk Assurance Committee were provided with an early draft of this paper.
Consumer Panel:		x	
Others:	MoJ have confirmed that they are content with the budget proposal.		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Annex B	Section 22: information intended for future publication	

LEGAL SERVICES BOARD

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OLC Budget

RECOMMENDATION

The Board is invited to:

- (1) Review the OLC's submission on its budget for 2015/16;
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BACKGROUND

Requirement for the LSB to approve the OLC budget

1. The Legal Services Act 2007 (**the Act**) includes a requirement that the LSB must, before the start of each financial year, approve an annual budget for the OLC. The Act explains that the budget must include an indication of the distribution of resources in the operation of the Ombudsman scheme and the income OLC expects from operation the scheme.
2. Whilst the LSB has a statutory responsibility to approve the OLC's budget, it has made clear in all years to date, that it would be inappropriate to duplicate the work properly done by the OLC Board in scrutinising the basis on which the budget has been developed. As such, an approval process was designed to provide adequate assurance to the Board about the robustness of the OLC process rather than seeing the LSB conduct a de novo analysis. To assist with this, the Board provides OLC with a suite of criteria that it is expected to address in its budget submission to LSB.
3. This year, the OLC's submission also includes a budget to fund its new claims management complaints (CMC) jurisdiction, as well as for its traditional legal services complaints jurisdiction. The CMC budget is funded by public funds known as Grant In Aid (GIA) from the Ministry of Justice (MoJ) and not by the levy on approved regulators. MoJ must therefore agree to provide the necessary GIA and they have confirmed that they are content with the proposal. The Act is clear, however, that the LSB is responsible for approving the entirety of the OLC's budget.
4. LSB, OLC and Mo J have agreed a methodology for apportioning costs that are shared by both the legal and CMC jurisdictions so that they can be recovered

from the relevant funding source – levy or GIA. The apportionment basis relates to the number of operational employees dedicated to the legal or CMC jurisdiction. This mechanism will be kept under review by all parties and may be modified by agreement.

5. The OLC are proposing a budget of **£14.84m** for 2015/16 (for both jurisdictions combined) - **£12.21m for legal** activities and **£2.63m for CMC** activities). This maintains their downward budget trajectory since establishment when, in 2011/12, their first full year of operation, OLC budget was £19.72m (legal only).

Statutory framework

6. Para 23 of Schedule 15 to the Act concerns the OLC's budget and states:
 - a. The OLC must, before the start of each financial year, adopt an annual budget which has been approved by the Board (LSB).
 - b. The OLC may, with the approval of the Board, vary the budget for a financial year at any time after its adoption.
 - c. The annual budget must include an indication of:
 - i. The distribution of resources deployed in the operation of the ombudsman scheme, and
 - ii. The amounts of income of the OLC arising or expected to arise from the operation of the scheme.
7. The Act also prohibits the OLC from borrowing money without the consent of the LSB (or in accordance with a general authorisation given by the Board) and requires the OLC to give the LSB its statement of accounts for presenting to the Lord Chancellor and Comptroller and Auditor General on its behalf.
8. As an independent NDPB, the OLC has its own Accounting Officer and Audit and Risk Assurance Committee. It has also its own independent sponsor-body/sponsor relationship with the MoJ in accordance with Managing Public Money. Hence, while the LSB approves the *level* of the budget, we do not have any responsibility in relation to in-year financial control issues (unless these cause the budget to be varied) nor in relation to the propriety of spend. The Board may wish to note that the MoJ Permanent Secretary remains the OLC's Accounting Officer at this time.

LSB acceptance criteria

9. The LSB required the OLC to address the following criteria in their budget submission:
 - a. A summary of the key risks to delivering the Plan for 2014/15 and mitigation proposed.

- b. The volumes predicted for the year along with a sensitivity analysis illustrating the organisation's response should volumes fluctuate.
- c. In accordance with the Act, an indication of the distribution of resources deployed in the operation of the ombudsman scheme and the amounts of income OLC expect to arise from the operation of the scheme. OLC were also requested to explicitly include within this breakdown staff costs and numbers broken down by function – for instance: enquiries; investigations; ombudsman team; corporate; others.
- d. A summary of where the Plan and budget has changed in response to stakeholder responses which should explicitly include the outcome of discussions with MoJ and the extent to which the final Plan and budget takes account of their input.

Our review of assurances provided by the OLC board

A. Summary of the key risks to delivering the Plan for 2015/16 and mitigation proposed

10. The OLC have identified five key risks to the achievement of their budgeted expenditure for 2015/16 in section eight (page 22-24) of Annex A. They state that that they apply in principle to both legal and CMC activities. A brief summary of the risks and the mitigations proposed by OLC are provided below:

- **Variations from planned contact and case volume.** Mitigations for this risk depend on the root cause. OLC note that as a consequence of prior years' cost reduction decisions, there is less capacity in-house available to respond quickly to any sudden and unexpected upturns in demand, the following mitigations are proposed:
 - a. Initial call volumes
 - i. short-term increases would managed by re-allocation of staff
 - ii. long-term reductions would be managed by a suspension of recruitment to replace leavers (once underlying cause was understood and agreed to be permanent)
 - b. Case volumes
 - i. an above anticipated increase (whether through increased volumes or increased ratio of cases accepted for investigation) would risk impacting the Timeliness KPI. Mitigation relies on OLC's recruitment strategy and flexible working policies (see Appendix 1 of Annex A)
 - ii. a decrease in volumes would see management ask staff to use up accrued flexitime and freeze recruitment.
- **Planned investigator efficiency is not met.** OLC cite efficiency at this level as being key to their resource planning and overall cost. They state that this risk has been mitigated by making a prudent assumption on investigator efficiency based on actual achievement. This relies on weekly monitoring of work in progress, rate of cases accepted for investigation and cases resolved

alongside investigator efficiency levels. In the event that levels of efficiency fell significantly, investigator resource would be adjusted. **The Board may wish to probe OLC on Ombudsman efficiency, where quarterly KPI review suggests recurring bottle-necks.**

- ***Staff turnover varies significantly from the plan.*** In addition to 'traditional' budget impacts as a consequence of increased staff turnover, OLC note the impact that NAO's recent decision to classify the organisation's benefit scheme as novel and contentious has caused uncertainty about employee remuneration. Until such time as the position is regularised, and ultimately, how, it is regularised, OLC note that there may be additional pressures on turnover levels. They propose to review turnover, activity and efficiency levels, regularly to determine recruitment plans. **The Board may wish to ask OLC about any impact on morale as a consequence of Accounts qualification and senior management changes.**
- ***Large legal costs associated with judicial reviews.*** OLC report only one judicial review to date that has had significant financial impact but report a small number of challenges ongoing, some of which may result in defence costs being material. This is mitigated through regular discussion with General Counsel.
- ***Lack of office space.*** This is a new risk and relates to OLC's recent move to smaller premises, the consequence of which is that significant long-term increases in headcount may not be able to be accommodated. Mitigation would include increased home-working and potentially exercising an option to let additional floor space.

B. The volumes predicted for the year along with a sensitivity analysis illustrating the organisation's response should volumes fluctuate

11. Predicted volumes for the legal jurisdiction are discussed at page and 8 and for CMC jurisdiction at page 12. Sensitivity analysis is at page 21 and is broadly similar for both jurisdiction.
12. OLC expect static legal case volumes of 8000 in 2015/16 (8000 forecast for 2014/15). They report that, since late 2013, overall volumes have dropped by over 2% compared to 2011/12 and 2012/13. Whilst residential conveyancing cases have increased, this has been more than offset by reductions in cases across other areas of law (particularly family, wills and probate). The OLC do not expect a recovery in the latter over 2015/16.
13. CMC volumes are reported as being one of the key uncertainties for OLC and at time of budget preparation there is little evidence on which to predict actual volumes. As a consequence, volumes remain based on projections made to support the CMC jurisdiction for OLC being 'switched on' ie 8000 contacts and

3000 cases.

14. Section 7 of Annex A describes the impact that changes in contact volume, cases accepted and investigator efficiency are predicted to have on the ability of the Ombudsman to deliver their service. It goes on to set out how significant changes in demand would be met at Appendix 1.

C. An indication of the distribution of resources deployed in the operation of the ombudsman scheme and the amounts of income OLC expect to arise from the operation of the scheme. OLC were also requested to explicitly include within this breakdown staff costs and numbers broken down by function – for instance: enquiries; investigations; ombudsman team; corporate; others.

15. A summary of the total OLC budget showing income and expenditure for the year is provided in section 3 (page 6). Budgets for the legal and CMC jurisdiction are shown on pages 7 and 12 respectively. Each is supported by a breakdown of the anticipated headcount for the year and the budgeted figures for each functional area.

16. Additionally, Section 6 at page 16 describes how the shared, indirect costs are apportioned.

D. A summary of where the plan and budget has changed in response to stakeholder responses which should explicitly include the outcome of discussions with MoJ and the extent to which the final Plan and budget takes account of their input.

17. OLC note that, since the publication of their draft Plan and budget, “there have been significant unplanned developments”, referring to Accounts qualification and the dismissal of the Chief Ombudsman. As a consequence of these, more so than from consultation responses, there has been a need to revise financial plans for 2015/16 from that consulted upon (and seen by the Board in October 2014).

18. Section 11 at page 27 describes these changes. In summary the OLC is now proposing a budget for the legal jurisdiction of £12.21m (£11.5m consultation) and for the CMC jurisdiction of £2.63m (£2.87m consultation).

19. The OLC report that their revised Plan incorporates stakeholder feedback (Plan not yet received) and state that there was wide support for a continuing focus on unit costs provided that this was not at the expense of quality of decision-making. Additionally, the OLC’s four strategic goals were endorsed although stakeholders called for greater ambition in driving improvements in the overall complaints handling system and expanding their programme to disseminate learning.

20. MoJ were consulted but OLC report no substantive changes were required as a consequence. In respect of the budget, MoJ stated:

“Generally we are content with the proposed budget based on the information we currently have available to us. However, the monitoring of spend will continue throughout the year and in particular in relation to the CMC remit as at the moment the case fee income is still uncertain. As time begins to tell a more accurate picture of case volumes, we will be in a better position to know whether any contingencies are required. I should also say that at this stage the capital allocations are still under consideration as the position for 2015/16 is extremely tight.”

Recommendation

21. The Board is invited to:

- (1) Review the OLC’s submission on its budget for 2015/16;
- (2) Approve the budget.

16.03.15