

To:	Legal Services Board	
Date of Meeting:	26 November 2015	Item: Paper (15) 61

Title:	OLC performance update	
Workstream(s):	Performance, evaluation and oversight	
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Status:	Official	

Summary:

This paper provides the Board with the OLC's S120 performance report addressing proposals for a comprehensive framework for key performance indicators (KPIs) and performance targets to apply to the performance of the Legal Ombudsman (LeO) scheme from April 2016 onwards (**Annex A**). The report also describes proposals for the governance arrangements which the OLC will put in place to ensure that its administration of the the LeO scheme allows for effective monitoring of performance against the KPIs and measures from 1 April 2016, as requested by the LSB.

Steve Green (OLC Chair), Michael Kaltz (OLC Board Member lead for performance indicators) and Nick Hawkins (OLC CEO) will be at the meeting to speak to this item.

The paper also provides the Board with the latest monthly performance report received from the OLC (**Annex B**). This relates to performance in October.

The October report confirms that:

- For timeliness, performance declined by 1% from August and September (49% of cases resolved within 90 days) to October (**48%** of cases resolved within 90 days). Target is 60%.
- The rolling quarter unit cost has increased from £1,865 (for July, August, September) to **£1,903** (August, September, October). Target is £1,750.
- The quality measure, which is reported quarterly, remains at 58% for Q2. The target is 40%.

Recommendation(s):

No decisions are required at this stage. The Board is invited:

- (1) to note the OLC S120 report on its proposals for future performance framework
- (2) to note and comment on the most recent performance reports

Risks and mitigations

Financial:	N/A
Legal:	N/A
Reputational:	Good OLC performance is central to the success of the Legal Services Act reform agenda. The Act provides the LSB with powers to influence the performance of the OLC in administering the Legal Ombudsman scheme and this paper demonstrates that the Board will deploy those when necessary.
Resource:	Managing the LSB's governance relationship with OLC is absorbing above average levels of resource at present and is likely to continue to do so for the foreseeable future.

Consultation	Yes	No	Who / why?
Board Members:	x		Terry Babbs conducted the Board's quarterly performance discussion with OLC on 3 November
Consumer Panel:		x	
Others:			

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Third sentence of para 22(c), Para 23(a)	Section 36(2)(c): information likely to prejudice the effective conduct of public affairs	

LEGAL SERVICES BOARD

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OLC performance update

Background / context

1. In June 2015, the Board placed a number of requirements on the Office for Legal Complaints (OLC) under S120 (reporting obligations) and S121 (performance targets) of the Legal Services Act 2007 (see Board Paper (15) 44 as presented at 8 September meeting).
2. This paper provides the Board with the OLC's S120 performance report addressing proposals for a comprehensive framework for key performance indicators (KPIs) and performance targets to apply to the performance of the Legal Ombudsman (LeO) scheme from April 2016 onwards (**Annex A**). The report also describes proposals for the governance arrangements which the OLC will put in place to ensure that its administration of the the LeO scheme allows for effective monitoring of performance against the KPIs and measures from 1 April 2016, as requested by the LSB.
3. The paper also provides the Board with the latest monthly performance report received from the OLC (**Annex B**). This relates to performance in October.

OLC proposals for future performance measurement framework

4. At **Annex A**, the Board will find OLC proposals for key performance indicators to operate from 1 April 2016. The proposals were discussed and approved by the OLC Board at its October 2015 meeting and were developed with the involvement of senior LeO staff and the Chairs of the OLC, OLC ARAC and OLC RNC. The OLC Chair, in submitting the proposals confirms that they have been developed to be the most appropriate KPIs and performance measures for LeO, that they have due regard to the regulatory objectives and best practice principles of the administration of Ombudsman schemes (as requested in the LSB's S120 request).
5. Key points to note are:
 - a. OLC are adopting a 'balanced scorecard' approach, tying KPIs closely to OLC's strategic priorities and linking those to the regulatory objectives.
 - b. Cost measures move away from the simple unit cos measure used currently and are designed to be more granular
 - c. Timeliness targets retain current periods although they will be kept under review. There are different targets for the legal and CMC jurisdictions

- d. Quality measures will be tied to a new quality framework and informed by research currently underway as such these proposals are not yet firm and OLC will continue to use the current quality measure on a temporary basis for two more quarters.
 - e. The need for an appropriate impact measure is identified but work is yet to be completed to confirm what it should be or a target.
6. The executive has undertaken a preliminary review of the proposals and agrees that they represent a significant undertaking that moves the OLC forward in terms of a richer suite of indicators more closely aligned to the organisation's strategic objectives. Five years of experience has also allowed the OLC to see where historic measures and targets might have – inadvertently or otherwise – generated either perverse incentives (timeliness versus quality) or been unhelpfully totemic (unit cost).
 7. More detailed scrutiny will be required in order to understand more clearly the rationale for some of the proposals and to assess whether they meet the LSB's aspirations for providing adequate assurance that the OLC is holding its executive to account for effective administration of the scheme in the interests of all of its users, prospective legal services consumers and legal services providers.
 8. In particular, understanding the impact of the implementation of the Interim Chief Ombudsman's quality framework review is going to be critical to driving into the organisation a consistent approach to quality; an area that the OLC has grappled with since inception and which LSB has worried about in equal measure. The executive is pleased to see emphasis on the principles that the scheme reaching outcomes which are fair and reasonable and providing customer service which meets or exceeds agreed standards.
 9. In terms of next steps, OLC representatives will be attending the Board meeting to outline their proposed approach and the executive recommends that the Board establishes a sub-committee for OLC related matters, including performance, to provide more detailed scrutiny.
 10. Under the Legal Services Act 2007, the LSB has the power to set or direct OLC to set one or more performance targets relating to the performance by the OLC of any one of its functions. It is not obligated to do so nor does it have any powers of formal sanction should OLC fail to meet any such targets.
 11. The current S120 targets set by the LSB for the OLC will expire on 31 March 2016 and it is recommended that the sub-committee, if established, be asked to explore with the executive whether, and if so what, new targets be set from 1 April 2016.

OLC performance against targets - October

12. The table below summarises OLC performance against LSB's S120 targets to date (please note that there was an error in chart reported to October Board meeting) :

	Target	June report	July report	August report	Sept. report	Oct. report

Time	60%	57.1%	52%	49%	49%	48%
Unit cost	£1,750	£1,726	£1,724	£1,816	£1,865	£1,903
Quality	40%	61%	61%	58%	58%	58%

Why were timeliness and unit cost targets missed in October?

13. With regard to **timeliness**, the reasons provided by OLC for the failure to meet the target remain much the same as reported to the Board in September:
- Technical difficulties with the new Case Management System (CMS)** – where intermittent performance interruptions continue and the impact of major disruption in August continues to affect work in progress and will do so for at least another month.
 - Impact of changes to Ombudsman working practices and Ombudsmen workload management – these remain as previously reported. OLC maintain that these are short-term which will deliver improved quality and customer satisfaction in the longer term, as well as ultimately reducing the numbers of cases sent to Ombudsman for decision. OLC’s expectation in September was that this was unlikely to be ‘statistically visible’ until November 2015.
14. OLC continue to report that material improvements in the timeliness measure will not be seen until the longer term benefits of current initiatives take effect and until additional planned resource is appointed and up to speed.
15. OLC **remedial action** as regards bringing timeliness performance back into compliance with the target is only reported in relation to a) and b) above – no other actions are described. With regard to issues with the CMS, the actual remedial action is unclear. The report simply reinforces that that the Board and senior management remain “*highly focused on this issue and recognise that significant work remains to be done....in order to secure all the benefits and efficiencies were envisaged from the new system*”.
16. With regard to the short-term impacts of Ombudsman working practices, the OLC reiterate that their position that these are changes that need to be seen through in order to deliver longer-term benefits. They note that there has been progress on recruiting a flexible pool of Ombudsman resource and that interviews for fixed-term secondments as Ombudsmen have also been completed but that the recent MoJ spending controls on recruitment is likely to delay implementation.
17. The executive notes that there is, however, no reference to wider organisation initiatives to address the declining timeliness performance nor a very clear indication of the point at which the OLC expects the issues with the CMS and Ombudsman working practices to be resolved such that timeliness performance will revert to an upward trajectory.
18. With regard to **unit costs**, OLC remind LSB that the measure is highly sensitive to short term changes in activity volumes and that the ultimate driver behind the failure to meet the unit cost target is a reduction in overall demand against forecast since January 2015. Additionally, OLC report that expenditure was

ahead of budget due to costs incurred in remedial CMS activities and one off audit and governance costs. Whilst overall expenditure is within budget case volumes are 19% below planned activity levels which drives up unit cost.

19. The **remedial action** proposed to bring the measure back to target levels remains in line with previous reports: recruitment to replace departing staff in some roles has been deferred; the introduction of a flexible pool of Ombudsmen rather than permanent resource; and use of internal secondment where possible. The OLC report that this is not expected to impact materially until Q4 2015/16. They also caution that if MoJ spending controls impact on their ability to deliver on recruitment, this will further reduce the number of cases that can be resolved and thus again, negatively impact the unit cost figure.
20. On the other hand, if the MoJ spending controls limit OLC's ability to commit spend to planned communications activity, this will have a positive impact on unit costs. This is not something to be welcomed – proactive dissemination of the learning from complaints is the 'value add' of an Ombudsman scheme to both consumers and the profession alike.
21. The executive notes that unit cost as currently calculated is a crude measure that does not give a rounded picture of cost efficiency for the scheme as it is so dependent on case volumes – a variable not within the OLC's control and where expenditure cannot necessarily be adjusted quickly in response to falling volumes. This is a point picked up in the proposed performance measurement framework.

Upcoming milestones

22. The following section outlines the upcoming milestones for LSB / OLC governance interactions:
 - a. **Until March 2016**, the OLC will continue to report performance against the LSB's S120 targets on a monthly basis (in line with the S120 notice)
 - b. **Until March 2016**, where performance falls below S120 targets, the OLC will also continue to provide written explanation as to the reasons for that and details of remedial action.
 - c. **Before end January 2016**, the LSB should expect to receive a copy of the OLC's Annual Report and Accounts for 2014/15, before they are laid, in line with the requirements of statute. Historically, this Report has been presented to an LSB meeting in person by an OLC Board Member. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Both MoJ and OLC are aware of the statutory obligation to provide the report pre-laying to LSB but it is likely that this will have to be by correspondence (as it was for the 2013/14 accounts).
 - d. **In March 2016**, the OLC will submit their budget for 2016/17 to the LSB for approval in line with statute.

23. Additionally, the Board will wish to note:

- a. [REDACTED]
- b. **On 1 December**, Mike Pitt and Richard Moriarty will meet their counterparts from OLC for a quarterly meeting.
- c. **On 9 December**, Mike Pitt and Richard Moriarty will attend the OLC Board.

Recommendation

The Board is invited:

- (1) to note the OLC S120 report on its proposals for future performance framework
- (2) to note and comment on the most recent performance reports

18.11.15