

OLC REVISED KEY PERFORMANCE INDICATORS – NOVEMBER 2015

SUMMARY

In Spring 2015, the membership of the OLC Board was substantively revised. Aware of concerns raised by their predecessors regarding the performance measures operated by the organisation, the new Board decided to task staff to undertake a full review of the Key Performance Indicators (KPIs), performance measures and targets applied to the Legal Ombudsman scheme. Additionally, the Legal Ombudsman underwent changes to its processes and procedures, over the Spring and Summer of 2015 and began to place an enhanced emphasis on qualitative aspects of case work, which further strengthened the need to revise the existing measures.

The Board's intention was to design a suite of measures which accurately reflected performance, were related to factors within our control and which assisted in incentivising improvement. Board members were very closely involved in this process, with the Chair of ARAC acting as performance lead for the Board.

In June 2015 the LSB used its powers under the Legal Services Act 2007 to require the OLC to provide an interim report on this work by 1 September 2015, and the proposals themselves, with an explanation of the reasoning behind them, by 1 November 2015. The LSB required that the reasoning supplied to them must demonstrate "*why the OLC is assured that these are the most appropriate KPIs and performance measures for the Legal Ombudsman scheme, having due regard to the regulatory objectives and best practice principles for the administration of ombudsman schemes.*"

This paper sets out a revised suite of KPIs, performance measures and targets, to apply from April 2016. It provides supporting rationale for the new measures adopted and where appropriate, for the removal of existing measures. The paper refers to two tiers of indicators:

- **The KPIs and KPI targets.** These will be published externally and performance against them set out in the Annual Report.
- **The performance measures and targets, and management information** that underpins these. These will be used internally but will not be published externally. The OLC was involved in the development of these to ensure that they were comfortable that executive management would be equipped to monitor and manage performance at a granular level – and the OLC will consider the management information regularly as part of its duty to hold the executive management to account.

The OLC discussed and approved these proposals at its meeting on 20 October 2015. This report was subsequently finalised with the involvement of senior staff and the Chairs of the OLC and the two Board Committees.

CONTEXT

The new suite of KPIs, measures and targets set out in this report has been determined with reference to:

1. The purpose of the Legal Ombudsman scheme, as set out in the Legal Services Act 2007. This is to resolve complaints which are within the scheme's jurisdiction "quickly and with minimum formality".¹
2. The requirement under the Act² that the OLC must, so far as is reasonably practicable, act in a way;
 - (a) which is compatible with the regulatory objectives, and
 - (b) which it considers most appropriate for the purpose of meeting those objectives.

¹ S113 Legal Services Act 2007

² S116 Legal Services Act 2007

The regulatory objectives³ are:

- (a) protecting and promoting the public interest;
 - (b) supporting the constitutional principle of the rule of law;
 - (c) improving access to justice;
 - (d) protecting and promoting the interests of consumers;
 - (e) promoting competition in the provision of services as specified in the Act;
 - (f) encouraging an independent, strong, diverse and effective legal profession;
 - (g) increasing public understanding of the citizen's legal rights and duties;
 - (h) promoting and maintaining adherence to the professional principles.
3. The principles appearing to it to represent the best practice of those who administer ombudsman schemes.⁴
4. The OLC's current business priorities, as set out in its business plan, which are to:
- i. Continue to improve our efficiency
 - ii. Implement agreed changes to our jurisdiction
 - iii. Help to create an improved legal complaints handling system
 - iv. Disseminate what we have learned more widely

APPROACH

In this context, the OLC has adopted an approach which echoes the “balanced scorecard” method, ensuring that its long term strategy is translated into a coherent, compatible set of short term goals, and that it is able to track performance against these goals effectively, in an holistic way. This approach will enable it to build consensus around the strategy and express it in terms that guide action at team level, link the strategy to individual and team goals at all levels, and facilitate integrated financial and activity planning. It will also support adherence to the fundamental principles of good practice for ombudsman schemes, and allow flexibility to change some of the KPIs, measures and targets when strategy and business goals change, while retaining others as constant, because they check our compliance with fundamental principles. In addition, it will allow transparent monitoring of performance against the KPIs in a simple format, which will be developed over the Autumn.

The targets do not include “people” measures because the OLC decided at its June meeting that these should continue to be reported separately to the Remuneration Committee and to the Board, enabling full oversight of people matters whilst acknowledging that some of these measures are not operational performance indicators *per se*.

The OLC is about to commence its annual review of its strategy and business goals for 2016/17 in line with the business planning cycle. This review will take account of the outcomes of the Government's Spending Review, as these crystallise over the Autumn. As is good practice, the KPIs, targets and measures will be revisited as part of this wider strategic review, which will enable proper planning based on that outcome. Meanwhile, the approach set out below has been developed, based on the current business priorities. Underlying performance and management information will continue to develop to provide improved insight and oversight to the OLC, and greater granularity of key operational data for management.

The balanced scorecard below summarises the strategic priorities encapsulated in our business goals, translates them into operational objectives, and attaches measurable KPIs and targets to them. It also highlights key initiatives in each area, in line with best practice, to enable board oversight. Further details and the rationale behind the targets and measures are set out in the pages that follow.

³ S1 Legal Services Act 2007

⁴ S116 Legal Services Act 2007

Balanced Scorecard					
Strategic Priorities	Objectives	KPIs – red blue	PIs/MI -	Targets	Initiatives
1. Improve our efficiency	Improve times taken Deliver to Approved Budget	Expenditure, legal jurisdiction Cost per Legal complaint Cost per Legal investigation 56 day resolutions, legal 90 day resolutions, legal 180 day resolutions, legal 365 day resolutions, legal		<ul style="list-style-type: none"> • On budget • On budget • On budget • 35% • 60% • 90% • 100% 	<ul style="list-style-type: none"> • New CRM and portal • Structural review • KPI review • Scheme Rules review
2. Implement agreed changes to our jurisdiction	Effective first year of CMC jurisdiction	CMC Expenditure Cost per CMC investigation 56 day resolutions - CMCs 90 day resolutions - CMCs 180 day resolutions - CMC		<ul style="list-style-type: none"> • On budget • On budget • 60% • 90% • 100% 	<ul style="list-style-type: none"> • Effective first year of CMC jurisdiction. • Embed accountancy jurisdiction. • Consult on ADR entity status. • Consult on voluntary scheme and third party complaints
3. An improved complaints handling system	Outcome quality Service quality	Average satisfaction of complainants and lawyers in any quarter. <i>To be replaced by:</i> Customer ratings of top 3 key service indicators at AC, RC and end of the process Internal quality outcomes		<ul style="list-style-type: none"> • 40% • TBC* • TBC* 	<ul style="list-style-type: none"> • Enhance and develop our own quality systems • Develop our service offering • Review Publishing Decisions policy
4. Disseminate what we have learned more widely		Policy & research delivery Policy & research expenditure Provide CPD Stakeholder confidence in our ability to deliver our strategy Public awareness of LeO role		<ul style="list-style-type: none"> • Delivery to plan & quality • On budget • 50 hours • TBC* • TBC* 	<ul style="list-style-type: none"> • Expand research programme • Enhance analysis and insight • Enhance learning and information • Implement awareness programme • Enhance website and online channels

- TBC* - these targets are to be established following collection of 6 months' data

Strategic Priority 1: Improve our efficiency

Relevant Regulatory Objectives:

- (a) protecting and promoting the public interest;*
- (b) supporting the constitutional principle of the rule of law;*
- (c) improving access to justice;*
- (d) protecting and promoting the interests of consumers;*

We will improve our efficiency by looking for opportunities to build further on our strong track record for managing costs and making process improvements, while understanding, meeting and striving to exceed the expectations of our diverse customers and stakeholders. We consider that the most appropriate KPIs and performance measures to track improvement in our efficiency are centred on two areas: cost, and the time taken to resolve complaints.

1. Costs

Managing costs is a central part of improving our efficiency, in particular in the current context of falling incoming complaint volumes. Ensuring the OLC performs within its budget is central to our duties to manage the funds allocated to us efficiently. The OLC considers its cost measures must:

- Provide transparency and accountability for OLC expenditure.
- Reflect and support the financial efficiency of our casework activities.
- Discretely measure our different jurisdictions in line with their separate levy income.
- Support our strategic goals of an improved complaint handling system and to share what we have learned more widely.

The Current cost measures and targets are:

Measure	Target
1. Total Expenditure on Legal Jurisdiction	Total Expenditure on the Legal Jurisdiction is not to exceed the annual OLC budget approved by the LSB
2. Total Expenditure on Claims Management Jurisdiction	Total Expenditure on the Claims Management Jurisdiction is not to exceed the provision in the annual OLC budget approved by the LSB.
3. Unit Cost	Unit Cost for the Legal Jurisdiction should not exceed £1,750 per case for the financial year 2015/16

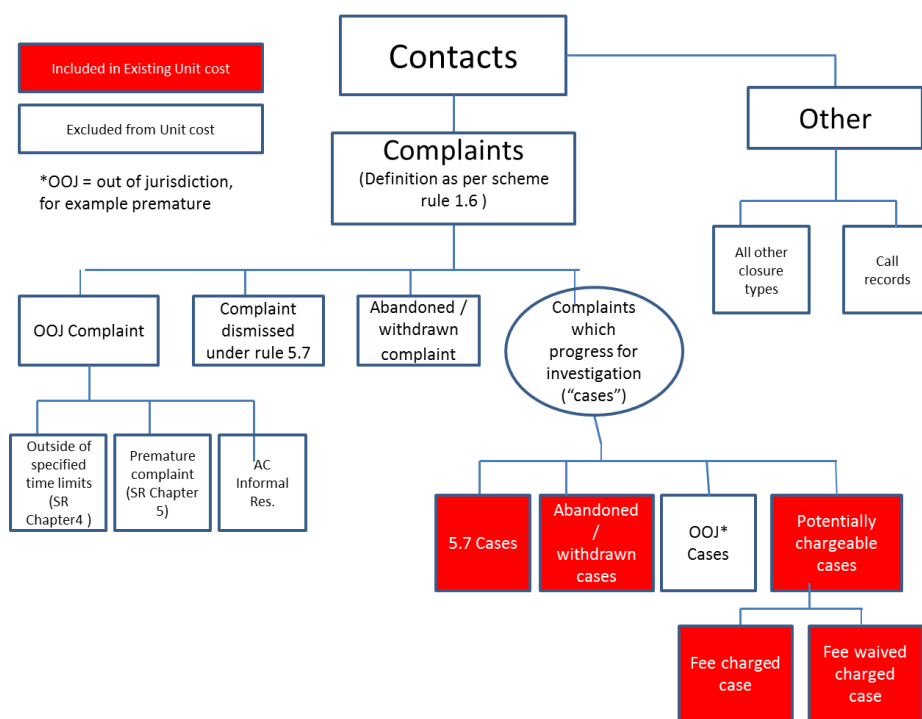
We consider the discrete measures and targets in relation to total expenditure in the two jurisdictions (1 and 2 above) to be appropriate and important – it is of fundamental importance that the business operates within its approved budgets – so no change is proposed in respect of these. However, the OLC has significant concerns regarding the existing Unit Cost measure (3 above). The existing Unit Cost measure represents a “Cost per Case”. The OLC’s concerns are related to composition of both the numerator and the denominator.

The numerator includes all costs of the organisation, regardless of whether these are fixed or variable costs and whether or not these are directly related to casework. Therefore the costs of advice and guidance activities are included alongside those of our policy, research and educational work, as well as the c.12,000 complaints (60% of all complaints that we deal with) that do not involve an investigation. The numerator also includes Corporate Service costs that are unrelated to casework productivity and operational casework performance. Corporate Services costs contain significant fixed or semi-fixed elements such as rent and rates for offices and medium term contractual commitments for outsourced IT services.

These resources need to be managed and adjusted to meet the organisation's requirements, but are normally structural and cannot be changed as part of a performance management response to short term casework volume changes.

The denominator excludes from the count of "cases" all activity dealing with consumer enquiries and complaints which do not result in those complaints being accepted for investigation (the 12,000 complaints referred to above). It also excludes investigations which result in the complaint being found to be outside of our jurisdiction (out of time or premature etc.). The diagram below illustrates the activities undertaken and highlights in red those which are included within the denominator of our current Unit cost measure.

Casework activity included within the Existing Unit Cost measure



As a result of the above, the unit cost measure:

- **Is not directly comparable between different ombudsman schemes.** Due to the varied nature and complexity of complaints, as cited in paragraphs 7.4 -7.7 of the Consumer Panel's benchmarking report, simple cost measures vary significantly between schemes. It is not common practice among ombudsman schemes to publish cost per complaint targets, or to publish cost measures. Unit cost comparison will be distorted by differences in definition and recording of what constitutes a case or a complaint, and because of differences in the nature of complaints received - "complexity". As such, direct comparisons are at best indicative.
- **Incentivises management to minimise any expenditure not directly involved in delivering or supporting casework;** (e.g. research, policy, communications, analysis, sharing knowledge with regulators and informing the profession, quality, internal audit and compliance), and discourages activity which would lead to better complaint handling at first tier and reduce second tier complaint volumes

The OLC is therefore adopting a set of alternatives cost measures, which it considers provides appropriate transparency and accountability for expenditure, while also supporting the delivery of the OLC's strategic plan.

The proposed KPI cost measures for this Strategic Priority are:

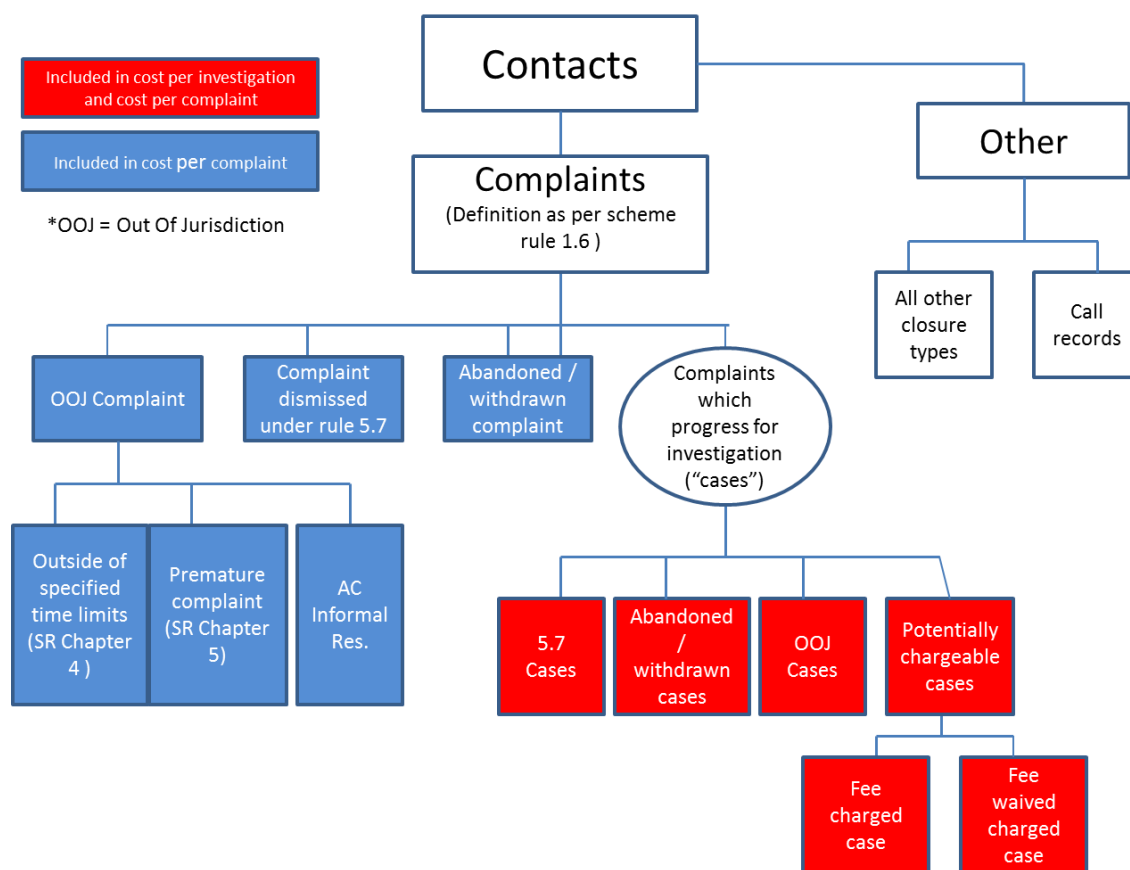
- 1. Total Expenditure on the Legal Jurisdiction vs. Budget**
- 2. Direct Assessment Centre cost per Legal complaint**
- 3. Direct Resolution Centre cost per Legal investigation**

Supporting our KPI measures will be the following internal performance measure:

4. Corporate Services expenditure vs. budget

KPI 1 is self-explanatory. The other two KPIs are explained below. The diagram below illustrates the activities undertaken in the legal jurisdiction and highlights those which are included as part of our proposed cost measures. The activities included in the denominator for cost per investigation are shown in red. These are also included in the denominator for the cost per complaint, along with the activities shown in blue.

Casework activity included within the proposed measures



KPI 2 | Direct Assessment Centre Cost per Legal Complaint:

This measure reflects the direct costs of handling all complaints received by the Assessment Centre. By excluding overhead costs, this measure reflects only the direct costs of dealing with complaints and of signposting consumers to others and providing initial advice to consumers.

The costs of providing general advice and guidance to consumers and others who contact our Assessment Centre without a complaint are included in the numerator for this measure.

- Costs would comprise Direct Costs of the Assessment Centre; i.e. primarily staff costs.
- Complaints (as defined in our scheme rules) comprise all individual complaints about a legal service dealt with by the assessment centre. This measure counts complaints **received**.

This measure provides an indication of changing cost efficiency over time and so:

- a) Encourages optimisation of assessor resource and makes this achievable within a short to medium term timeframe.
- b) By excluding contact activity that does not directly relate a “complaint” from the denominator, the organisation is incentivised to reduce these costs by finding new ways to pre-empt contacts from consumers whom we cannot help (or cannot yet help) and to provide information to enable them to help themselves or to signpost them to others who can.

KPI 3 | Direct Resolution Centre Cost per Investigation:

This measure reflects the direct costs of our investigation activities.

- Costs would comprise
 - Direct Costs of the investigation teams and Ombudsmen, and;
 - Direct costs of General Counsel and legal advice in relation to enforcement and challenges to decisions.

“Investigations” comprise all complaints **resolved** during a period which had progressed to investigation. (We currently call these “cases”).

This measure provides an indication of changing cost efficiency over time and so

- a) Encourages optimisation of investigator and ombudsman resource and makes this achievable within a short to medium term timeframe.
- b) Encourages optimisation of direct activities such as scanning and printing costs.

2. Timeliness

The time taken to deal with complaints impacts both on our costs and the customer experience. Dealing with cases efficiently means eliminating re-work and double-handling, taking the shortest route possible to resolution, and empowering people early in the process to take decisions. This efficiency should manifest itself in the time taken to resolve complaints – although variations in complexity and external factors such as the actions of customers will also impact on this measure. The time taken to resolve a complaint is also an important measure of the customer experience. Our customer satisfaction data tell us that there is a clear correlation between how long it takes to achieve resolution and complainants’ satisfaction with the outcome of their case, as well as their overall satisfaction

with the service offered by the Legal Ombudsman.⁵ Accordingly, “dealing with the case promptly” was the second most-cited reason for satisfaction with our service last year, (after “kept me informed”).⁶

However, the evidence also indicates that there is *not* a direct correlation between an ever-faster service and a more positive customer experience; the evidence indicates that speed needs to be balanced against providing customer service and delivering a fair (and *demonstrably* fair) outcome. Our survey findings show that customers, in particular complainants, place most importance on having what they believe to be a reasonable opportunity to “have their say”, “provide relevant evidence”, and to interact with us to fully understand our process.⁷ During 2014, when complaints were being dealt with increasingly quickly, customer satisfaction was also falling. The data for the twelve months to October 2014 shows that 52% of complainants surveyed said that they felt our process and service were unfair. Of the complainants who considered the service was fair, more than a quarter spontaneously mentioned that this was because we listened to both sides.⁸ This is supported by interim findings from the qualitative study being conducted for us by ESRO, which suggests that for many complainants, the time taken to consider the case was one of the clearest indicators of the thoroughness of the investigation and the level of resource that had been invested in the investigation.⁹

Current Timeliness measures and targets – Legal Jurisdiction

Measure	Target
• Assessment Centre calls answered in 20 seconds	80%
• KPI: Percentage of cases resolved within 56 days	40%
• KPI: Percentage of cases resolved within 90 days	70%
• KPI: Percentage of cases resolved within 180 days	95%
• Measure: Percentage of cases resolved within 365 days	100%

We measure the timeliness of our “cases” - complaints received that are assessed as within jurisdiction and accepted for investigation. We do not include contacts or complaints that are dealt with in the assessment centre. The measure starts from when the case is accepted for investigation, and ends when the case is closed, either by informal resolution or ombudsman decision.

Our timeliness Measures and KPIs for the year 2016/17 are below.

	Proposed KPIs	Proposed Performance Measures/ Management information
Assessment Centre calls answered in 20 seconds	80%	
% cases resolved in:		
56 days		35%
90 days	60%	
180 days	90%	
365 days		100%
ADR 90 days*	100%	

**Should the OLC decide to apply to become an ADR entity, and be successful in its application to do so, the ADR Regulations would require it to report on the percentage of cases, excluding complex cases, in which the complainant is notified of the outcome within 90 days of the Legal Ombudsman receiving the complete complaint file. 100% compliance with this measure is required by the regulations. As this measure is less informative than our other proposed KPIs, (being limited to only a small part of our process), we do not*

⁵ ICM Annual Report, p.18

⁶ ICM Annual Report, 25.

⁷ ICM Annual Report, 30.

⁸ ICM Annual Report, 28.

⁹ ESRO Interim update, August 2015.

propose to report on this if we do not proceed with an application to become an ADR entity. If we do become an ADR, we shall report performance against this requirement separately from our KPIs, to avoid customer confusion.

The service level measure and target used within the Assessment Centre is to answer 80% of calls answered within 20 seconds. This is a standard industry measure for contact centres and one which we believe is still valid and so should remain unchanged.

56-day measure: We propose to continue to monitor the 56-day resolution rate internally as it is useful management information for monitoring and supporting progress against achievement of the 90 day target. We do not propose to use this as a KPI in the legal jurisdiction, as we believe that to do so could drive behaviours which compromise the thoroughness and fairness of investigations, taking into account the complexity of the cases and issues handled, the current process and CRM issues, and the customer research set out above.

90-day measure: We will retain the 90-day KPI measure for three principal reasons:

- **Benchmarking:** This measure is widely used across the ombudsman sector and is therefore a useful tool for benchmarking – although it should be recognised that the varying complexity of cases means that direct comparisons are not necessarily informative.
- **Customer expectations and experience:** Our current customer research shows that the majority of our complainants – half overall, and two thirds of those who had a clear expectation of how long their case would take – expected it would take up to three months (only 20% expected our process would take more than three months). Meeting customer expectations in this regard is an important driver of satisfaction with our service.¹⁰ Clearly, the OLC will continue to review this measure in the light of future research data as it becomes available.
- **Current performance:** For the two reasons set out above, we have always reported against a 90-day KPI. The fact that we are not currently achieving our 90-day target, is a strong argument against removing it as it could be seen as an attempt to remove a target because the OLC had not met it, discrediting the KPIs. Moreover, the under-achievement of this target is a useful indicator of underlying issues in the business, such as our CRM challenges, of which the OLC should be made aware. The other time targets on which we report are impacted materially less by these issues. It was concluded that this measure remained necessary in terms of the OLC's oversight, and driving the executive to resolve these issues.

180-day measure: It was decided to maintain a 180-day KPI measure because customers should reasonably expect us to be able to resolve all but a small minority of the most complex cases within this six-month time frame. Achievement against this KPI is also critical to our cost control – without it we do not consider that that we would be able to gain sufficient assurance of the efficiency of our operation.

365-day measure: We will continue to measure 365-day performance because *ordinarily*, there should be no circumstances under which complaints take longer than this to resolve. However, as the numbers involved are small and the likelihood is that the case would by definition be unusual, we consider this is more appropriately treated as a management tool, than a KPI. The important factor here is that the Board and management should be aware of cases overrunning a year and understand why this is happening.

The OLC will, in future years, continue to review and consider the optimal time periods at which performance will be measured.

¹⁰ ICM annual report, 16.

Time targets

The current 90-day annual target of 70% was intended to be challenging and was adopted by the previous OLC Board and Management on the strength of a period of performance in excess of 65%. This can be seen, with the benefit of hindsight, to have been atypically high and the organisation was unable to sustain it over 2013/14 or to recover that level in 2014/15 – with the result that what was acknowledged to be a stretching target proved in fact to be unrealistic. The performance to date reflects this - 70% has never been consistently achieved, and its achievement over limited periods has driven perverse behaviours such as the practice of prioritising new cases over older or more urgent cases purely to meet the target – a success achieved at the expense of fairness and customer service.

In addition, the impact of process changes introduced in the last twelve months to mitigate risk, improve service, and comply with standard ombudsman principles further inhibit the organisation's ability to meet this target. In particular, we have begun sharing evidence on cases with both parties before making a decision. This is considered essential, both in terms of law and equity, and it is an accepted minimum standard of practice in other ombudsman schemes. However, we had not previously adopted this practice and its introduction has added new steps to our case handling process.

In conjunction with the new fairer process and emphasis on service and achieving a proper outcome, it is therefore intended to reduce the time targets to 2012-13 levels (albeit with a 56 day target, which was not used in 2012/13), as set out above. This will nevertheless be more challenging than it was in 2013 as a result of the process changes and increased emphasis on quality.

The 90% resolution target applied to the 180 day period will be accompanied by provision to the Board of a more detailed and granular analysis of the outstanding 10% of cases. The Board has registered a clear aspiration to move toward the adoption of the more demanding target of 95% for this measure at a future point, and will therefore keep this target under close review.

Cases which exceed 365 days will be reported to the Board with a concise supporting narrative, which will indicate the reasons for the delayed resolution.

Strategic Priority 2: Implement agreed changes to our jurisdiction

Relevant Regulatory Objectives:

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;
- (d) protecting and promoting the interests of consumers;
- (h) promoting and maintaining adherence to the professional principles.

1. Principles

One of the OLC's strategic priorities for 2015/16 was implementation of the agreed changes to our jurisdiction, with a specific objective of operating an effective first year of our CMC jurisdiction. The extension of the Legal Ombudsman's jurisdiction to accept complaints against CMCs was successfully implemented on 28 January 2015, following navigation of the appropriate parliamentary milestones and in accordance with the dates set out in the Section 161 commencement order.

We need to be able to measure how effective our first year of CMC operations has been - but we must also evidence how the work of the CMC jurisdiction supports the regulatory objectives set out within the Legal Services Act 2007. In order to do this, we will report externally against

three key areas that are important to our customers and significant in relation to our efficiency and effectiveness. These are: timeliness, cost and quality.

2. Current Approach

As CMC operations have been in start-up, there has been no formal requirement this year to report performance against external KPIs. Nevertheless, performance has been tracked against the existing KPIs and targets used within the legal jurisdiction in order to provide appropriate management information:

Cost: Total expenditure on the Claims Management Jurisdiction – not to exceed approved budget
Unit cost (cost per case)

Whilst we must measure cost performance in order to evidence efficient operations, the fundamental limitations of the current unit cost measurement were outlined in detail within the preceding efficiency section of this paper.

Timeliness: 40% of cases resolved within 56 days
70% of cases resolved within 90 days
95% of cases resolved within 180 days

During the first nine months of CMC operations, the team has significantly exceeded the timeliness targets outlined above, which indicates that they are neither appropriate nor stretching for the CMC jurisdiction. There are a number of reasons for this, including the differences between the external CMC and Legal landscapes and the difference in the complexity of complaints. Experience to date indicates that CMC complaints are less complex and can be resolved more quickly than legal complaints

Quality: The % of customers satisfied with the outcome of the case and are also satisfied with the service.

As the sample size is still small enough for relatively minor variations to distort analysis, we are only able to monitor performance against this KPI for CMCs through the customer satisfaction verbatim comments. The current approach to measuring quality has limitations and provides insufficient information both internally and externally.

3. Revised Measures

The management information provided as a result of monitoring the above targets and measures provides evidence of an effective nine months of CMC operations. However, these KPIs, targets and measures need refinement in order to monitor effectively the performance within the CMC jurisdiction. Going forward, the suite of KPIs will be broadly similar across the legal and CMC jurisdictions but the targets for each jurisdiction will differ, reflecting the varied landscapes and different nature of CMC work and complaints (for example by encouraging and monitoring performance in respect of the informal resolution of complaints, given the higher informal resolution rate in the CMC jurisdiction) and the different expectations of CMCs and their customers in comparison with lawyers and their customers.

Cost KPI measures: Total CMC expenditure vs. Budget
Direct cost per CMC investigation

Since the CMC unit does not differentiate between Assessment activity and Investigation activity in the same manner as the legal jurisdiction, the direct costs of casework will be calculated in a similar manner as for the Direct Cost per Investigation in the legal jurisdiction. “Investigations” comprise all complaints **resolved** during a period which had progressed to investigation.

Timeliness: PI/MI: 60% of cases resolved within 56 days
KPI: 90% of cases resolved within 90 days
KPI: 100% of cases resolved within 180 days

Although stretching, the proposed targets are realistic and better reflect our experience within CMC operations.

Quality KPI: Outcome Fair and Reasonable
Customer service which meets or exceeds target.

The CMC jurisdiction is adopting the same quality framework as the legal jurisdiction. Full details in respect of quality KPI / measures are detailed under the Strategic Priority 3 section of this paper.

Strategic Priority 3: Create an improved complaints handling system

Relevant Regulatory Objectives:

- (a) protecting and promoting the public interest;*
- (b) supporting the constitutional principle of the rule of law;*
- (c) improving access to justice;*
- (d) protecting and promoting the interests of consumers;*
- (e) promoting competition in the provision of services as specified in the Act;*
- (f) encouraging an independent, strong, diverse and effective legal profession;*
- (g) increasing public understanding of the citizen's legal rights and duties;*
- (h) promoting and maintaining adherence to the professional principles.*

1. Context

On her appointment in February, the Interim Chief Ombudsman was tasked with reviewing the Ombudsman Scheme. She identified a range of problems with the existing scheme. There was an historical focus on achievement of KPIs to the exclusion of engagement with facts. The KPIs were unbalanced, lacking any indicators of casework quality and carrying the potential to drive perverse behaviours such as the subordination of quality to quantity. Issues with quality, consistency and efficiency went unaddressed in the absence of a clear quality definition and robust systems. The casework system driving cases to ombudsmen was inefficient and structurally incapable of dealing with peaks in demand. In organisational terms, the role of ombudsmen was ambiguous and un-optimised.

The KPI review is informed by these findings. The responses to the issues identified, led by the Interim Chief Ombudsman, have comprised a range of measures and initiatives, including:

- A detailed quality framework review and introduction of a new quality framework
- New research to identify Customer needs and gain a better understanding of the customers' experience
- Development of service principles
- Reform of approach to, and writing and role of, Recommendation Reports
- Improved ombudsman structure, role and integration with operational staff
- Reviewed ombudsman targets and resourcing
- The introduction of ombudsman development
- Recruiting a pool of ombudsman who can be called upon to address peaks in demand, and a number of fixed-term ombudsman posts
- New software to improve efficiency

2. Principles

Achieving a high standard of casework quality is essential in order to operate an effective ombudsman operation. Serious reputational, operational and financial risks would arise from failure in this area. Quality is thus a fundamental cornerstone of our performance monitoring and management. The scheme's leadership has agreed that quality across the ombudsman scheme means:

1. Reaching an outcome which is fair and reasonable; and
2. Providing a customer service which meets or exceeds agreed standards.

These principles have been developed with reference to the provisions of the Legal Services Act 2007, the core principles of ombudsmanship as set out by the Ombudsman Association, and the key areas in which risk would arise should performance fall below standard. The new quality framework, currently being piloted, is designed to promote, support, and quality assure against these principles.

3. Current measures

At present the OLC uses only one "quality" KPI. This is measured, but has no target:

- **% of complainants satisfied with the outcome of their complaint who are also satisfied with the service received.**

The measure is narrow, uninformative about the robustness or fairness of our decisions and resolutions, and inextricably linked to case outcome. More than 95% of complainants satisfied with the outcome of their complaint are consistently satisfied with the service received; by contrast fewer than 30% of complainants who did not receive an outcome with which they were content were satisfied with the service received. This pattern is common among other schemes. The measure therefore provides little useful intelligence to the OLC or to other stakeholders. In parallel with this KPI, the OLC has historically received very detailed reports. These have included all the management information seen by the operational management teams, including a breakdown of the quality scores achieved by team, and in some cases by individual, broken down into all of the questions against which quality was previously assessed.

In addition, in June 2015, the LSB set a new quality target, which is attached to a new measure not previously used by the scheme:

- **Average satisfaction of complainants and lawyers must not fall below 40% in any quarter.**

Unlike the OLC's existing quality KPI, this measure does not seek to distinguish between customers who were satisfied with the outcome of the complaint and those who were not. However, such is the strength of the correlation between outcome satisfaction and service satisfaction that it is driven by the proportion of people satisfied with the outcome. Satisfaction with outcome can be achieved without award of remedy, and so it is to some extent an effective indicator of trends in our expectation management, persuasiveness, and the clarity of our communications about our role and remit

4. Revised measures

Quality data published by other comparable schemes (FOS, PHSO, SLCC etc.) are in line with our own current position of publishing a single or small number of customer survey-based "satisfaction" data. Targets are typically either absent or based upon a percentage improvement in a measure, rather than identifying a set percentage as an absolute. The only notable differences between our current approach and that of other comparable schemes are minor. Some (though not all) comparable schemes either:

- use a more specific question or questions "was the decision fair and unbiased", "would you trust us" (e.g. FOS); or

- break down results between different parts of their process to measure satisfaction at assessment, investigation and decision stages.
- Publishing targets related to internal measures of the fairness/robustness of decisions is not practised by other schemes. We have been unable to find evidence of any comparable scheme publishing KPIs which measure this area.
- The following will be the KPIs (externally published), and PIs (internally reported):

1. Outcome Fair and Reasonable	
KPIs	
In line with the practice of comparable schemes, and the risk-assurance nature of these measures, it is recommended that the measures and targets in this area are treated as performance indicators and management information rather than external KPIs.	
Performance indicators/Management information	
(a)	<p>Internal quality monitoring:</p> <ul style="list-style-type: none"> ● % of cases sampled each quarter where decision is and is not found to be fair and reasonable. ● % of assessors, investigators, ombudsman etc. on each red/amber/green risk rating for outcomes, based on new quality system assurance checks. ● % of decisions “sent back” to investigators by ombudsmen for re-work. ● % of cases requiring a provisional decision by ombudsmen – highlighting weaknesses in, or materially different conclusions regarding the original recommendation report ● Profile of decision types (withdrawn, informally resolved, etc.) to indicate trends, and where decisions are not being taken in line with historic patterns.
(b)	<p>Judicial review data:</p> <ul style="list-style-type: none"> ● Number of judicial review pre-action protocols received each quarter ● Number of cases re-opened as a result of judicial review action ● Number of cases settled out of court ● Number of JR cases progressing to court ● Number of JR cases won and lost
(c)	<p>Internal service complaints data:</p> <ul style="list-style-type: none"> ● Number of service complaints received at each stage ● Number and percentage of service complaints where substantive fault is found

Other than in the very small proportion of cases in which a decision is challenged through judicial review, whether an outcome is fair and reasonable is assessed through internal review by an expert colleague. The new quality framework therefore introduces outcome quality reviews for all case-handling roles: assessor, investigator, ombudsman, and lead ombudsman.

In line with the best-practice recommendations of KPMG following their recent internal audit of our current quality system, the performance of each member of staff will continue to be assigned a RAG rating for the quarter dependent on the outcome of those reviews, and the number of reviews completed for a member of staff over a 12 month period will be determined by their quarterly RAG rating. Those reviews are a key part of the performance management data used by line managers of complaints handling staff, but it is also recommended they form a central part of the quality reporting to the OLC.

Moreover, while these measures are critical to internal performance management (at both an individual level and identifying areas where organisational performance can be improved), it is unlikely these measures would be suitable for external publication. This is because, in the absence of any contextual data (and it does not appear that other ombudsman schemes publish data of this type) any deviation from 100% performance risks seriously undermining confidence in the service we provide.

The proposed measures do not have attached targets because we do not yet have a half year's data against which it would be possible to benchmark. The Board considered two approaches – to wait until six months of measured performance data had been acquired and then set targets informed by that data, or to set initial targets on the basis of estimation and to review them after six months of measured performance. It was concluded that estimated targets would have little value and could potentially drive perverse behaviours, so the approach adopted has been to adopt targets once the benchmarking data is in place to inform them.

2. Customer service which meets or exceeds organisational standards	
KPIs	
(a)	<ul style="list-style-type: none"> • Interim KPI - Average satisfaction of complainants and lawyers must not fall below 40% in any quarter. <p>This KPI will be retained whilst benchmarking data is accrued to develop targets for the new KPI at (b) below</p>
(b)	<ul style="list-style-type: none"> • Percentage of customers who rate the top three most important elements of our service (as identified in the ESRO research currently underway - e.g. clarity of communication, feeling that we understand the next steps, confidence in LeO staff) as satisfactory or better: <ol style="list-style-type: none"> 1. after initial contact 2. in the investigation stage, and 3. at the end of the process. <p>As these are new measures and no baseline data exists at present, it is proposed that targets are established on the basis of 6 months' performance data.</p>
Performance Indicators/Management Information	
(a)	<ul style="list-style-type: none"> • Net promoter score overall, and broken down by business area (Assessment Centre, Resolution Centre etc.) and by those satisfied with outcome and those not satisfied with outcome as this is informative for MI within teams.
(b)	<ul style="list-style-type: none"> • Percentage of outcomes sampled (total and broken down by ombudsmen, investigators, and assessors etc.) where customer service standards were met and not met, as determined by a more senior colleague/peer review, with reference to a set of customer service principles/standards. <p>As these are new measures and no baseline data exists at present, targets could only be based on an estimation of what constitutes a credible and effective level of performance.</p>
(c)	<ul style="list-style-type: none"> • % of lawyers satisfied with outcome also satisfied with service • % of lawyers dissatisfied with outcome also satisfied with service • % of complainants satisfied with outcome also satisfied with service • % of complainants dissatisfied with outcome also satisfied with service • % of CMCs satisfied with outcome also satisfied with service • % of CMCs dissatisfied with outcome also satisfied with service

From 1 April 2016, following completion of the ESRO research, we are introducing new, in-process, customer experience measures, at assessment and investigation stage in the legal jurisdiction and at comparable reference points in the CMC jurisdiction. The ESRO research will identify what matters most to our customers, and in line with current best practice thinking (for example in the Ombudsman Association), use this intelligence to determine a set of customer service principles/standards. The top three of these will then be monitored through our in-process customer experience monitoring, and performance against them tracked through our KPIs

Strategic Priority 4: Disseminate what we have learned

Relevant Regulatory Objectives:

- (a) protecting and promoting the public interest;*
- (b) supporting the constitutional principle of the rule of law;*
- (c) improving access to justice;*
- (d) protecting and promoting the interests of consumers;*
- (f) encouraging an independent, strong, diverse and effective legal profession;*
- (g) increasing public understanding of the citizen's legal rights and duties;*
- (h) promoting and maintaining adherence to the professional principles.*

1. Principles

The work undertaken by the Policy, Research and Communications function makes a fundamental contribution towards achievement of the strategic objectives:

- Implement agreed changes to our jurisdiction
- Help create an improved legal complaints handling system
- Disseminate what we have learned more widely

To monitor how we are performing in these areas, the OLC and Legal Ombudsman must have measures that:

- Reflect our delivery of key policy work to support changes to our jurisdiction, processes and procedures
- Track progress of research commissioned to enable us to improve complaints handling, both for ourselves and other service providers which fall within our jurisdiction
- Measure the effectiveness of the organisation's knowledge dissemination activities
- Evaluate levels of confidence in our ability to deliver our remit among key stakeholders
- Measure levels of awareness of the Scheme among the general public

2. Current measures

Our current performance measures cover reputation and impact.

- Reputation: We commission external, independent measurement of satisfaction levels among customers (consumers and lawyers) and stakeholders on an annual basis. There is one reputation indicator:

The percentage of stakeholders who are satisfied with overall levels of engagement

As part of our annual stakeholder survey we ask stakeholders how satisfied they are with overall levels of engagement.

- Impact: We undertake annual surveys of stakeholder groups to assess their confidence that we are delivering our objectives and annual surveys of consumers of

legal services to determine how many are aware of the Legal Ombudsman. There are two Impact indicators:

(a) Percentage of stakeholders who have confidence in our delivery against our mission

As part of our annual stakeholder survey we ask:

“Our task is to run an independent ombudsman scheme that resolves complaints about lawyers in a fair and effective way, where we are shrewd and decisive when tackling complex issues and that is open so we can give focused feedback to help drive improvements in legal services”.

(b) Percentage of users of legal services in the last two years that have heard of the Legal Ombudsman.

The annual awareness survey, which first took place in 2012, is designed to measure awareness levels of our service within the general public and users of legal services. The results are used to benchmark and track the impact of our communication and media activity and to identify any trends in awareness levels across demographic groups. As part of our awareness survey we ask:

“Have you personally used and paid for a legal service in the past 2 years?”

“Before today, had you heard of the Legal Ombudsman?”

3. Proposed measures

- **KPI: Delivery against a policy and research programme to support improvements in first tier complaints handling –**
 - (i) work planned against work delivered**
 - (ii) we will use our ongoing survey work to devise a measure in relation to the impact and effectiveness of our work**

As (ii) will be a new measure and no baseline data exists at present, it is proposed that targets would be established after the measure was devised, on the basis of 6 months' performance date.

- **KPI: Policy and research expenditure – on budget**

Management information

- **Provide 50 hours of professional learning to the legal profession and claims management companies through courses in first-tier complaints handling**
- **Percentage of stakeholders who have confidence in our ability to deliver our strategy**
- **Percentage of the public who have heard of the Legal Ombudsman and understand its role**

The latter two measures currently have no baseline against which progress can be measured. Data collected for the first year will form the baseline for following years.

Legal Ombudsman

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Sir Mike Pitt,
Chairman's Office
Legal Services Board
One Kemble Street
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WC2B 4AN

30 October 2015

Dear Mike,

Section 120 Legal Services Act 2007 – Performance Measurement Framework and Performance Assurance

On 3 June 2015, you wrote to me setting out a number of requirements under sections 120 and 121 of the Legal Services Act. One of these required the OLC to furnish the LSB, by 1 November 2015, with proposals for a comprehensive framework for key performance indicators and performance measures to apply to the performance of the Legal Ombudsman scheme from April 2016 onwards.

Additionally you required proposals for the governance arrangements which we will adopt to ensure that our administration of the Legal Ombudsman scheme allows for effective monitoring of performance against the KPIs and measures from 1 April 2016. The current arrangements were set out by me in my letter to you of 28 August 2015 and our intention is to continue with these, although it is highly likely that the OLC's Review of Financial Controls and Systems, which an independent contractor is just completing, will suggest improvements and it is our intention to act on the basis of those recommendations once they are finalised. Until we have the final report, we cannot set out what the possible revisions may be - but I will make sure that you are aware of them as soon as possible. As is currently the case, the effectiveness of the future governance arrangements will of course be kept under constant review by myself in collaboration with the Chief Ombudsman and Chief Executive.

The detailed proposals for the new suite of KPIs and performance measures are in the report attached to this letter. As required, the report provides an explanation of the reasoning behind the proposals to demonstrate why the OLC is assured that these are the most appropriate KPIs and performance measures for the Legal


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Ombudsman scheme, having due regard to the regulatory objectives and best practice principles for the administration of ombudsman schemes.

We have adopted a “balanced scorecard” approach which ties the KPIs closely to the strategic priorities of the organisation and marshals them against those priorities. It also links the priorities to the regulatory objectives. The performance measures that we have developed are, we believe, far more closely aligned to the business actually carried out by the OLC than the existing suite. In particular, the proposed cost measures, which have moved away from the Unit Cost measure, are more granular and will provide a relevant and accurate picture of the cost of our operations, removing a perverse incentive to minimise those costs that did not directly deliver case resolutions – which regrettably have included governance activities. Those cost targets will be quantified as a result of the budgeting process.

Our timeliness measures retain the existing periods – although we intend to keep these under review and, as you would expect, will reconsider them in future if evidence indicates that differing time periods are more appropriate. Equally, we will keep the targets set for these periods under close review and will, if we conclude that it is realistic to do so, consider raising them, either as part of our strategy consultation exercise, or farther into the future. The time related KPIs for the CMC jurisdiction use the same periods but have different targets which reflect the distinct nature of that jurisdiction.

The quality measures are tied into the new quality framework developed by the Interim Chief Ombudsman and informed by the research we are undertaking. Because key research impacting on this area is not yet available, it is conceivable that the findings could lead us to reconsider proposals - in which case we would revisit them as part of our strategy consultation process. As the measures cover new fields, we do not have an existing body of data against which to benchmark and set targets. We intend to build that up over the next two quarters - but whilst we do, we will use the quality target applied by the LSB as a temporary KPI.

Developing meaningful measures and KPIs to monitor our performance in terms of the dissemination of knowledge and best practice was challenging and we concluded, in relation to monitoring impact, that we needed to look more closely at the survey work we undertake, using this to identify and then devise a measure. Because there is an absence of existing data for benchmarking purposes, the associated targets will have to be developed once we have that data. Nevertheless, the monitoring of the performance in these areas will, even before we are in a position to set targets, enable a clear understanding of trend to be acquired.

The OLC Board and the senior management have worked closely and intensively on these proposals. We have been very clear that this year is a period of change, consolidation and of refocusing for the OLC and the Legal Ombudsman Scheme. We have worked with interim senior management to stabilise the organisation's performance, revise its processes and structure, and set out a vision of a mature, ombudsman-led, quality-focused organisation which is resourced and organised to deliver its strategic priorities effectively and efficiently. We now have the permanent Chief Executive and Chief Ombudsman we need to deliver that vision and lead a high-performing organisation.

By the beginning of 2016/17, we expect our performance to be on an upward trajectory. We are confident that once these performance measures come into operation, they will play a key role in helping us to support and challenge the executive in completing the change process and delivering the high quality, efficient service to the public and to the legal sector which we know the organisation to be capable of.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Green', is centered on a light gray rectangular background.

Steve Green
Chair
Office for Legal Complaints

Att: