

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	22 October 2015	<b>Item:</b> Paper (15) 54

<b>Title:</b>	Update on OLC performance	
<b>Workstream(s):</b>	Performance, evaluation and oversight	
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<b>Status:</b>	Official	

### Summary:

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. This paper provides the Board with the two performance reports received from the OLC since the Board last met on 8 September (Annex A – for August and Annex B – for September).

They confirm that:

- For timeliness, performance declined from July (52% of cases resolved within 90 days) to August (49% of cases resolved within 90 days) but remained stable in September.
- Unit cost has increased in every month.
- The quality measure, which is reported quarterly, declined by 3% from Q1 (61%) to Q2 (58%).

Additionally, at Annexes C and D, the Board will find the exchange of letters between respective LSB and OLC Chairs further to the joint Board discussion held in September.

The paper also provides information on forthcoming milestones in relation to LSB governance obligations towards OLC.

### Recommendation(s):

The Board is invited:

- (1) to note and comment on the most recent performance reports
- (2) to agree to an adjustment in the monthly deadline for S120 reports from seventh calendar day to ninth
- (3) to note the upcoming milestones in relation to its governance obligations towards OLC.

### Risks and mitigations

**Financial:** N/A

<b>Legal:</b>	N/A
<b>Reputational:</b>	Good OLC performance is central to the success of the Legal Services Act reform agenda. The LSB has a limited range of levers ta its disposal 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.
<b>Resource:</b>	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?
<b>Board Members:</b>		X	
<b>Consumer Panel:</b>		X	
<b>Others:</b>			

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Para 15 (e), third sentence	Section 36(2)(c): information likely to prejudice the effective conduct of public affairs	

## LEGAL SERVICES BOARD

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### Update on OLC performance

#### Background / context

1. The Board used its statutory powers to issue requirements for the OLC under Sections 120 and 121 of the Legal Services Act 2007 (the Act) on 3 June 2015. To date, the Board has seen performance reports for June and for July, and requisite commentary, and an interim report on the OLC's work to develop a comprehensive framework of Key Performance Indicators (KPIs) and performance measures (see Board Paper (15) 44 as presented at 8 September meeting).
2. Additionally, at its 8 September 2015 meeting, the Board received a comprehensive presentation from OLC Members and senior LeO colleagues. This covered the challenging operating environment in which the OLC finds itself, the steps the OLC has, or is putting, in place to remediate LeO performance and a wide range of other issues with which the OLC is dealing at this time.
3. This paper provides the Board with the reports received from OLC under S120 relating to performance against the LSB's S121 targets in August and September (see Annexes A and B respectively).
4. It also seeks the Board's agreement to an adjustment in the deadline place on OLC for receipt of monthly S120 reports from seventh calendar day to ninth. This has been requested by OLC to allow the reporting schedule to align with their 'month end' process.

#### OLC performance against targets

5. The table below summarises OLC performance against LSB's S120 targets to date:

	<b>Target</b>	<b>June report (7 July)</b>	<b>July report (7 August)</b>	<b>August report (7 Sep)</b>	<b>Sept. report (7 Oct)</b>
<b>Time</b>	<b>60%</b>	57.1%	52%	49%	49%
<b>Unit cost</b>	<b>£1,750</b>	£1,709	£1,724	£1,770	£1,865
<b>Quality</b>	<b>40%</b>	61%	61%	58%	58%

#### Why were targets missed in August and September?

6. In line with LSB requirements, OLC provided a written explanation of why the timeliness targets were missed each month and details of remedial action proposed. These form part of the reports found at **Annex A and B**.

7. 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:
  - a. The consequential impacts of prior technical difficulties with the new Case Management System and delays to delivery of additional functionality. OLC warn that these difficulties will continue to impact the ability to meet the 90 day target for at least another two months
  - b. Changes to working practices of Ombudsmen and their work to improve the skills and quality of outcomes of assessors and investigators is also cited as a factor. OLC reiterate their view that this is a short-term impact on timeliness but one 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 is that this is unlikely to be 'statistically visible' until November 2015.
  - c. The impact of changes to workload allocation to Ombudsman ie to a 'next in line' basis rather than factoring in meeting the 90 day target.
8. OLC 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.
9. With regard to **unit costs**, OLC remind LSB that the measure is calculated on the following basis: all legal cases resolved during a period divided by the total expenditure related to their legal jurisdiction activities over the same period. This makes the measure sensitive to short term changes in activity ie case load volumes. In their September performance report, which sees the unit cost measure at £1,865 (against a LSB S120 target of £1,750), OLC report that they have received 13.5% fewer cases to date in 2015/16 than expected, and resolved 19% fewer cases than expected at this point in the year when budget forecasting. Even with expenditure running below forecast budget levels, this reduced volume of cases resolved has resulted in an increase in unit cost.
10. The remedial action proposed to bring the measure back to target levels includes previously agreed decisions to defer recruitment to replace departing staff in some roles and the introduction of a flexible pool of Ombudsmen to reverse the build-up of cases requiring an Ombudsman decision. This is not expected to impact materially until Q4 2015/16.
11. Additionally, OLC report that they are undertaking research to understand whether the decline in cases is likely to be a temporary or structural change in demand. More generally, they report that they do not presently anticipate making any further changes to the organisation's structural base nor to reduce or defer non-case work related expenditure noting the £4m reduction in the legal jurisdiction cost base made over the past three years.

#### **Request to adjust the monthly reporting deadline**

12. The S120 requirement for monthly reporting of performance against targets (and any narrative required) states that the report must be delivered to the LSB "within seven calendar days of the end of each month to which the report relates".
13. **The OLC have asked that the deadline be adjusted fractionally to either the eight or month calendar day of the month.** They explain that the unit cost figure requires their month end accounts to be closed in order to calculate it.

OLC report that the need to have this done by calendar day seven places significant demands on the OLC month end accounts production process and requires them to have finalised and closed their ledgers by working day four or at latest working day five in order for them to be able to deliver the report in the timeframes requested. This is a shorter time frame than their usual operating procedures, and is out of kilter with the month end reporting deadline they need to do for MoJ.

14. The Executive sees no operational reason to decline this request which may have some merit in allowing OLC greater time to check figures.

**Board decision required:**

Does the Board agree to an adjustment in the monthly deadline for S120 reports from seventh calendar day to ninth calendar day?

**Upcoming milestones**

15. 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. **By 1 November**, the OLC will have provided the LSB with reports on the following matters:
    - i. Proposals for a comprehensive framework for KPIs and performance measures to apply to the LeO scheme from April 2016 onwards;
    - ii. An explanation of their rationale for i. paying due regard to the regulatory objectives and best practice principles for the administration of Ombudsman schemes;
    - iii. Proposals for the effective governance arrangements OLC will put in place from 1 April 2016 to ensure effective monitoring of performance.
  - d. **On 26 November**, OLC representatives will attend the LSB Board meeting to present their draft business plan and budget for 2016/17 for information only at this stage. This will also provide an opportunity for discussion on the report due at c) above which we expect will be closely correlated to the draft plan.
  - e. **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]

i. 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).

f. **In March 2016**, the OLC will submit their budget for 2016/17 to the LSB for approval in line with statute.

16. Additionally, the Board will wish to note:

- a. **By the end of October**, Grant Thornton are expected to conclude their review of OLC governance controls and to report their findings to MoJ and OLC. The Executive are pressing for early sight of the findings of this report on the Board's behalf. It is understood that the outcome of this report will be an important determinant in any decision by the MoJ to delegate the Accounting Officer function to the OLC's CEO.
- b. **On 20 October**, the Director of Finance and Services will attend the OLC's Audit and Risk Assurance Committee as an observer on behalf of the Chief Executive.
- c. **On 21 October**, Nick Hawkins, new OLC CEO will be visiting the LSB office for an informal opportunity to meet the LSB team.
- d. **On 22 October**, Terry Babbs will meet Michael Kaltz, OLC Board Member for the Q2 review of performance.
- e. **On 3 November**, Richard Moriarty will have a formal induction meeting with Nick Hawkins.
- f. **On 1 December**, Mike Pitt and Richard Moriarty will meet their counterparts from OLC for a quarterly meeting.
- g. **On 9 December**, Mike Pitt and Richard Moriarty will attend the OLC Board.

### **Recommendations:**

17. The Board is invited:

- (1) to note and comment on the most recent performance reports
- (2) to agree to an adjustment in the monthly deadline for S120 reports from seventh calendar day to ninth
- (3) to note the upcoming milestones in relation to its governance obligations towards OLC.

15 October 2015