

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

Date 28 August 2015

Dear Mike

Requirements under section 120 of the Legal Services Act 2007 as set out in the LSB Chair's letter of 3 June 2015, Part B (7) and Part C

I refer to your letter of 3 June 2015, which contained details of the targets the LSB has set for the OLC under Section 121 of the Legal Services Act 2007; and the requirements you have placed upon us under Section 120 of the same Act. Parts B and C of the letter required the OLC to provide two reports by 1 September. This letter is intended to meet that requirement.

Requirement under Part B of the letter: Your letter required the OLC to "report by 1 September 2015 on the governance arrangements which the OLC Board has adopted from June 2015 to ensure that its administration of the Legal Ombudsman scheme allows for effective monitoring of performance against current OLC-set KPIs and measures, alongside the targets set by the LSB."

The OLC monitors the performance of the Legal Ombudsman scheme through the following process:

- A Board member has been nominated as the lead on performance and works closely with the Interim Chief Ombudsman on this subject. The nominated member is Michael Kaltz, who is also the Chair of the Audit and Risk Assurance


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Committee, ensuring that risk implications are focused on in the monitoring of Legal Ombudsman performance.

- At the end of every month, the Chair and lead member are briefed by the Interim Chief Ombudsman on current levels of performance, together with any actions being taken to address areas of under-performance.
- At the end of every quarter, up to date KPI data, supported by a comprehensive report, is presented to the OLC Board by the Interim Chief Ombudsman. This report contains details of areas of underperformance together with actions being taken to address them. Discussion on the report is led by the lead member but contributions are encouraged and (on the evidence of the July Board meeting) received from all members of the Board.
- The effectiveness of these arrangements is kept under constant review by the Chair in collaboration with the Interim Chief Ombudsman and Interim Chief Executive.

For the avoidance of doubt, these are the arrangements which were introduced for the performance year 2014/5, modified to take account of the division of the Chief Ombudsman and Chief Executive functions and the revisions to Board membership. Without doubt, the effective implementation of these arrangements was seriously impeded by the extraordinary circumstances and pressing risks which have confronted the OLC over the past 18 months. This risk environment, whilst not yet benign, has abated to a degree that we feel confidence that the current arrangements will meet our needs.

That confidence has been further buttressed by the refreshing of the membership of the OLC board. Without a doubt, the collective skill set of the new Board is much more in line with the demands of the environment in which the OLC now operates.

Alongside the process set out above, the Chairs of the OLC Board, the Audit and Risk Assurance Committee, and the Remuneration Committee approve the report furnished to the LSB on its s.121 targets within seven days of the end of every month. This ensures both that the LSB reporting process is properly integrated into the OLC's internal monitoring processes and that the Chairs are aware of monthly variations in performance.

Requirement under Part C of the letter: to provide an interim report on progress toward the establishment of a new comprehensive framework of key performance indicators (KPIs) and performance measures and targets to apply from April 2016, with reasoning, and proposals for governance arrangements from 1 April 2016.

The OLC is focussed on ensuring that previous practice does not colour its development of the new framework. It is therefore taking a zero-based approach to this review, considering afresh what would be the most appropriate framework, KPIs and performance measures for the scheme now, having regard to factors including the regulatory objectives, best practice principles for ombudsman schemes, and best practice more widely, in addition to current external drivers such as the ADR regulation reporting requirements. A clear distinction is being made between key performance measures, other performance measures and management information. The outcome of the review is likely to represent a fundamental departure from the suite of targets to which the organisation currently works, and thus a fresh start in the new financial year.

Progress

The OLC Board is fully engaged in the review and has devoted time to discussing the approaches to be taken. It has decided to take a balanced-scorecard approach incorporating targets and measures devised around cost, quality, timeliness and non-casework elements of the scheme such as research activity. It has decided that people measures are essentially management information not performance information, so these will continue to be reported to the Board and RemCo, but will not form part of the KPI and performance measures suite.

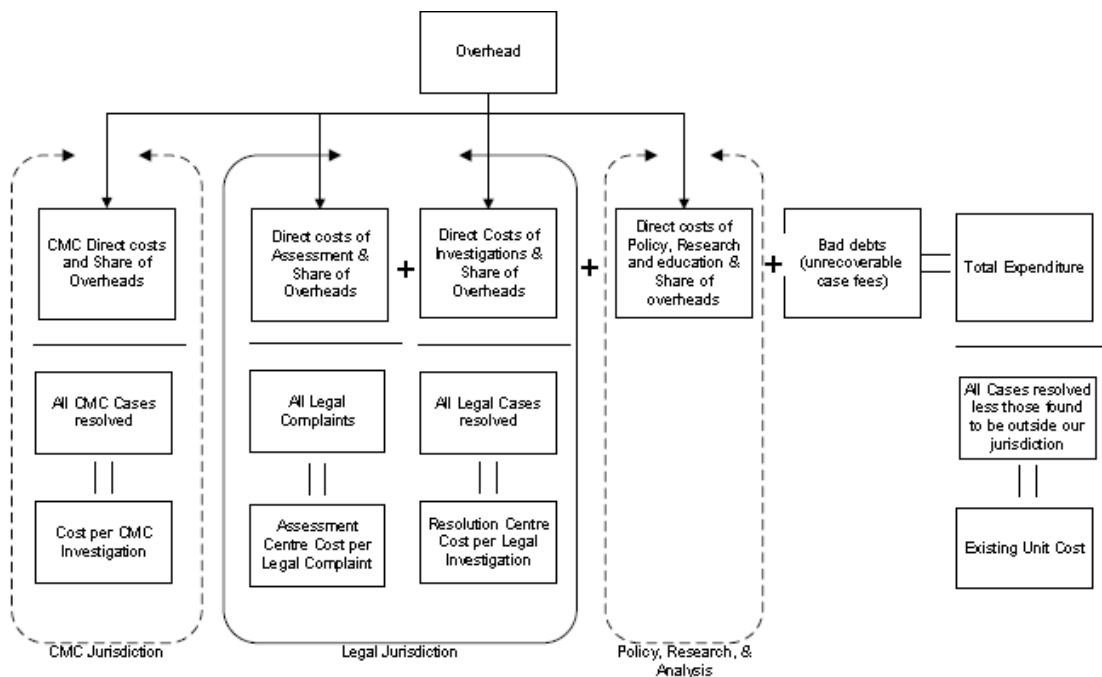
The OLC Board continue to work with the Executive, who are in turn engaging with managers, staff and external stakeholders in developing the targets and measures. An update on current thinking will be provided for further discussion to the OLC at its meeting on 15 September 2015, and the final decision will be taken by the OLC at its meeting on 20 October 2015.

Set out below is our current, emerging thinking, which we will continue to develop, test and progress between now and 20 October 2015.

1. Cost

The current Unit Cost measure is calculated by dividing the total cost of the Scheme by the number of cases resolved. The measure includes all costs of the organisation regardless of whether these are controllable or not. It also excludes from the denominator all activity on complaints or enquiries which do not progress to our resolution centre for investigation and any investigations by our resolution centre which result in the complaint being found to be outside of jurisdiction or premature. This is a more restrictive definition of a “case” than other Ombudsman schemes use and does not accurately or fully reflect work done by the Legal Ombudsman scheme. The current measure is also no longer aligned to our strategic goals as it actively discourages investment in non-casework activities such as research and other activities required to improve 1st tier complaint handling by service providers.

In developing its new suite of measures and targets, the OLC has explored a range of alternative options and is currently working on three new cost measures which break down cost by assessment centre, resolution centre, and CMC jurisdiction. These reflect, respectively, the cost of handling legal complaints and enquiries, the cost of legal investigation and resolution activities, and the cost of CMC investigations (which follow a different process which makes no distinction between assessment and investigation).



We continue to consider whether a share of overheads should be included or excluded within the cost per legal complaint and cost per legal investigation measures outlined above or simply monitored against budget. By including an allocation of fixed and semi fixed overheads into these cost measures we are aware that improved first tier complaint handling would adversely affect performance on these measures, as a result of reduced second tier complaint activity. This is evidently incompatible with our strategy and key business goals.

The other financial measure which we are developing relates to the cost-benefit of our research and education programme. We will budget for, and track, expenditure in this category and we will assess its effectiveness as discussed in section 4 below.

2. Timeliness of cases resolved

The OLC is reviewing the existing timeliness measures of cases resolved, which currently measures the percentage of cases received in a given month that are resolved by day 56, 90, 180 and 365. It considers timeliness measures are an essential component of the scorecard, but in determining the appropriate KPIs for its scorecard it is examining alternative reporting methods (including for example reporting either, or additionally as an alternative, the percentage of cases resolved in a given month by age), and calculations, such as the beginning and end dates used by comparable schemes and reported in other contexts, for example for the purposes of the ADR regulations.

Targets are also being reviewed in line with best practice, including through analysis of existing quantitative customer research data and through qualitative research currently underway. Further benchmarking will take place in this area before the OLC makes a decision on appropriate measures and targets. The underlying principle is to ensure that customers (whether consumer or service provider) experience a timely and responsive service while also ensuring that our targets do not result in customers feeling unduly pressured or rushed through a process in which they have a significant part to play.

3. Quality

A major project is underway to provide a comprehensive review of the Legal Ombudsman's approach to quality. This involves extensive engagement with staff and management in all roles, customer engagement, and best practice research. A new definition of casework quality has been devised, focusing on the fairness and reasonableness of the outcome, and the customer experience provided. New

procedures, guidance, training and systems are being developed to enable these to be measured across the business taking into account both our own and our customers' assessment of quality.

A pilot of the proposed new internal quality assurance, measurement and improvement systems will take place in selected areas across the scheme from 24 August 2015. Meanwhile a significant piece of research is underway to investigate what matters most to our customers, and what they consider to be a high-quality experience. This research is scheduled to report at the end of October, and its findings will feed into the revised Quality Framework. A review is planned for w/c 5 October to refine the systems and measures prior to roll-out across the organization later in October.

External quality measures – essentially to measure the customer experience from our customers' perspective – are being developed in parallel, including in-process feedback and survey tools. Presentations have been given by IT providers who can automate this process and options are currently being assessed.

The Quality Framework project Board is now meeting weekly and will continue to do so between now and October, to ensure momentum is maintained and decisions can be taken quickly and within an appropriate governance structure. Staff Council will also be formally engaged in developing proposals for the OLC's October meeting.

4. Non-casework activities: policy and research, outreach, dissemination and education to improve first-tier complaint handling.

The cost of these activities is currently included in the cost per complaint calculation, but the value of the activities does not form part of the KPI suite. Thus while they are central to our role and embedded in our strategic objectives, there is a disincentive to undertaking or investing in them. The OLC wish to increase the visibility of the costs and value added by these activities to ensure accountability and control. It is therefore developing a model in which the costs of non-casework activity is reported separately.

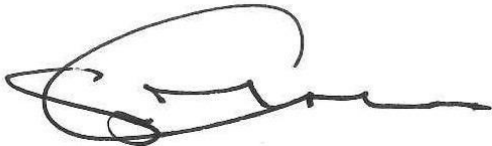
Reporting the performance of these activities is multi-factorial. The OLC is therefore currently developing a Red-Amber-Green RAG status model to report the status and progress of this activity, in which the RAG status rating is determined by a number of measures, including delivery of activity against a pre-agreed annual plan; feedback from the profession and other stakeholders; and expenditure against pre-agreed budget.

Governance

As you are aware, the OLC has commissioned a major review of the Legal Ombudsman's governance arrangements, which will be undertaken by Grant Thornton, commencing at the beginning of September. The review is scheduled for completion by the end of October. Its conclusions and recommendations will clearly be instrumental in helping to shape our developing governance arrangements and while the timeframe for the review to report will not allow the final recommendations to feed into our final report to you on 1 November 2015, we will consider them carefully as they emerge. Given the wide-ranging nature of the governance review, we expect concrete advice on governance issues, but it would not be prudent to speculate about the decisions to which this advice might lead at this stage.

If you have any questions relating to this letter, please revert to us, either directly or via our respective teams.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Green', with a long horizontal flourish extending to the right.

Steve Green
Chairman
Office for Legal Complaints