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| To: | Legal Services Board | | |
| Date of Meeting: | 26 March 2019 | Item: | Paper (19) 14 |

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| Title: | OLC budget approval | | |
| Workstream(s): | Performance, evaluation and oversight | | |
| Author / Introduced by: | Steve Brooker, Head of Policy Development and Research | | |
| Status: | Official | | |

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| Summary: |
| <p>The Act requires the Board to approve the OLC's annual budget.</p> <p>In the executive's view, the OLC's budget submission meets both the statutory and LSB acceptance criteria. The OLC are seeking approval for a revenue budget of £12.3m for 2019/20, unchanged since the draft budget considered by the Board at its November meeting. This is based on a revised forecast of 7,280 cases resolved and 7,200 new cases accepted (7,400 and 7,200 in the November submission).</p> <p>The submission indicates that the OLC would ideally like a higher budget (£12.6m) to address performance issues and invest in new delivery models. However, due to stakeholder pressure to bring down its unit cost (including from LSB) it feels unable to make this request. Nevertheless, the Ministry of Justice has provided budget cover of up to £12.6m through the medium-term financial planning process. The OLC may decide to make an in-year application to LSB for a budget increase should demand increase or unexpected budget pressures arise.</p> <p>The transfer of the claims management jurisdiction to the Financial Ombudsman Service remains on track to occur on 1 April.</p> <p>The OLC will not be in attendance at the meeting.</p> |

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| Annexes |
| Annex A – LSB's final budget acceptance criteria |
| Annex B – OLC's budget submission |

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| Recommendation(s): |
| <p>The Board is invited to:</p> <p>(1) review the OLC's submission on its budget for 2019/20</p> |

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| (2) consider approving the budget | |
| Risks and mitigations | |
| Financial: | OLC is required to comply with Managing Public Money requirements. The MoJ is responsible for financial oversight in year. The MoJ would need to provide Grant In Aid to the OLC in respect of the claims management jurisdiction should this not transfer to the Financial Ombudsman Service on 1 April. |
| Legal: | N/A |
| Reputational: | The LSB has no remit or authority to intercede in matters relating to ongoing financial management where meaningful oversight must be provided by the sponsoring department. OLC has seen increased stakeholder focus on its performance failings and on its unit cost; LSB's decision and commentary on its budget will be viewed in this context. |
| Resource: | N/A |

| Consultation | Yes | No | Who / why? |
|------------------------|-----|----|---|
| Board Members: | X | | The Chair and Marina Gibbs (OLC board lead) agreed the final budget acceptance criteria. |
| Consumer Panel: | | X | Although LSCP responded to the OLC's business plan consultation and their comments are referenced in the OLC's submission |
| Others: | | | |

| Freedom of Information Act 2000 (Fol) | | |
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| Para ref | Fol exemption and summary | Expires |
| None in cover paper, OLC to advise of any redactions in its submission | | |

LEGAL SERVICES BOARD

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OLC Budget Approval

Background and purpose of paper

1. Schedule 15 of the Legal Services Act 2007 requires the OLC, before the start of each financial year, to adopt an annual budget which has been approved by the LSB. The Act requires that the budget must include an indication of the distribution of resources deployed in the operation of the ombudsman scheme and the amounts of income arising or expected to arise from the operation of the scheme. In addition to these statutory criteria, the LSB may also set budget acceptance criteria which the OLC's budget must meet in order to allow the LSB to approve the budget. The final acceptance criteria were sent to the OLC on 31 November 2018, informed by the Board's discussion of the OLC's draft budget submission earlier in the same month (see **Annex A**).
2. The budget approval process undertaken by the LSB is designed not to duplicate the work properly done by the OLC in scrutinising the basis on which the budget has been developed. Rather, the approval process is designed to provide adequate assurance to the Board of the robustness of the OLC process in preparing its budget. The acceptance criteria provide the basis for this analysis. Further, as an independent NDPB, the OLC has its own Accounting Officer and Audit and Risk Assurance Committee. It also has an independent relationship with the Ministry of Justice (MoJ) in accordance with Managing Public Money. Hence, while the LSB approves the level of the budget, it does not have ongoing responsibility in relation to in-year financial control issues (unless these cause the budget to be varied) nor in relation to the propriety of spend.
3. As the Board was advised in November, the MoJ funds the claims management (CMC) jurisdiction, but the Board is still required to approve the whole of the OLC budget. The planned transfer of the claims management jurisdiction to the Financial Ombudsman Service (FOS) remains on track to occur on 1 April. Therefore, the OLC's submission does not include any budget for CMC costs, but should the transition be delayed the Board would need to approve these costs via a separate submission. The OLC has provided indicative costs to the MoJ based on a scenario of a delay until August 2019, of £0.065m with a £0.2m reduction in overhead charged to the legal jurisdiction.
4. The OLC approved the budget submission at its meeting of 20 March and the final paper was received by the LSB on the same day. The tight turnaround time

is not ideal, but the executive had sight of the paper that went to the OLC and this has provided sufficient time to give proper scrutiny to the OLC's submission.

OLC budget submission for 2019/20

5. The OLC's 2019/20 budget submission is at **Annex B**. It is not materially different to the draft budget presented to the November 2018 meeting.
6. The OLC is seeking approval for a revenue budget of £12.3m, representing a reduction of £0.4m (2.4%), from £12.7m to £12.3m, after factoring in inflation. Since the draft submission forecast case closures have been revised down to 7,280 (from 7,400) with forecast new cases remaining unchanged at 7,200. Budgeted unit cost for 2019/20 is £1,695, which would represent a reduction of 9.5% compared to the forecast for 2018/19 (but higher than the budgeted unit cost for 2018/19 of £1,578).
7. The OLC is concerned about whether the proposed budget is sufficient to deliver sustained performance improvement, cope with unexpected contingencies and allow investment in new delivery models. However, it has decided to keep to the £12.3m budget in its business plan consultation in light of stakeholder concern (including from LSB) about unit cost. Even so, through the medium-term financial planning process, the MoJ budget cover is expected to be up to £12.6m, and so the OLC may make an in-year budget submission to LSB within this envelope. Should the OLC request additional funding in-year, we would expect to see a clear plan for how these funds would be used.
8. The OLC is provided with a separate capital expenditure budget delegation directly from the Ministry of Justice, which is budgeted at £250k.

Review of budget submission against LSB acceptance criteria

9. Part 1 of the submission discusses the strategic context. Part 2 deals at length with the acceptance criteria relating to performance. Part 3 covers the other acceptance criteria and the appendices provide additional information, including an analysis of unit cost in Appendix 4 (as requested by the Board in November).
10. The executive have reviewed the OLC's submission against the final budget acceptance criteria, and in their view, the criteria have been met.
 - (1) **Transparency about expected KPI performance** – there is a detailed and frank overview of performance issues and future improvement plans (whole of Part 3 of submission). The OLC's account is that there has been progress over the year but significant work remains to sustain improving performance and address variable performance by achieving improved flow, progression and quality. In light of recent board discussions, it is positive that the OLC plans to bring forward work to develop more flexible delivery models (see paragraph 30, fourth bullet).
 - (2) **Distribution of resources and income, including key assumptions, staffing and justification of predicted volumes** – Sections 2.1, 2.4, 3.1-3.5 provide commentary. Appendix 2 provides a breakdown of the revenue

budget, while Appendix 3 splits staff numbers and costs by function. In November the Board asked the OLC for additional information to justify its assumptions on case volumes. Paragraphs 13 to 19 explain the OLC's assumptions but also the difficulty of using run rates from 2018/19 to predict future volumes given performance issues. The SRA's Handbook and transparency reforms make forecasting volumes challenging, but the assumption that underlying demand has not changed seems reasonable.

- (3) **A summary of key risks and mitigations to delivering the 2019/20 plan, and confirmation of sensitivity analysis** – Section 2.5 includes the sensitivity analysis. The investment in a forecasting model should improve the accuracy of the OLC's analysis over time, although it is still maturing. Part 4 lists the key risks and mitigations. OLC considers the key risks to be inaccurate forecast of demand, issues of operational resourcing and organisational capability affecting performance, and risk of overspending.
- (4) **Changes in response to stakeholder feedback** – Section 3.9 sets out stakeholder feedback to its consultation on the draft business plan and budget (although only four responses were received). In relation to budget, respondents made comments about case fees and unit cost. There were no changes to the budget following consultation.
- (5) **Approximate split in expenditure between i) complaints handling; ii) feeding back to the sector and anything else not covered by i and ii** – Paragraph 56 provides a breakdown of the budget by casework, feeding back to the profession and overheads. In November, the Board asked the OLC to explain and justify the low proportion of its budget that is allocated to feeding back to the profession (£0.3m, 3%). Section 3.5 provides the OLC's response. The justification covers a mix of MoJ spending controls, reduction of spending on research due to value for money concerns, a new business intelligence system being able to deliver better data, plus use of low cost social media communications and partnership approaches.
- (6) **Modernising LeO impact on cost per case and quality; explanation of case fee structures, income and collection; transfer of claims management work to FOS** – Section 3.6 and Part 2 on performance explain the impact of the Modernising LeO programme. As a result of the programme, OLC has moved to a new business process, staffing model and case management system (CMS). OLC considers performance in the new CMS to be strong and the programme will formally be closed down at the end of 2018/19.

Appendix 4 provides data on unit cost, which has fluctuated in recent years. There is some push back here, and elsewhere in the document, about the emphasis placed on unit cost by stakeholders (including LSB).

Paragraphs 41-45 and Section 3.7 contains commentary on case fees. Case fee income for the legal jurisdiction has been fairly consistent over

time, at just above £1m. The OLC plans to consult on potential options for changes to case fee structure during 2019/20.

See paragraph 3 of the board paper in relation to the transfer of the CMCs jurisdiction to FOS.

Next steps

11. The Board's decision, plus any comments, will be provided to the OLC as soon as possible after the meeting.
12. The process for the 2021/22 budget will begin in the late summer when we draw up revised draft budget acceptance criteria.