

To:	Legal Services Board	
Date of Meeting:	26 March 2014	Item: Paper (14) 11

Title:	OLC Budget Approval
Workstream(s):	N/A
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Status:	Restricted

Summary:
<p>The Legal Services Act 2007 requires the LSB to approve the annual budget of the OLC.</p> <p>This paper presents the OLC's budget submission for financial year 2014/15 (see Annex A).</p> <p>Elizabeth France and Adam Sampson will attend to present this item.</p>

Recommendation(s):
<p>The Board is invited to:</p> <ul style="list-style-type: none"> (1) Review the OLC's submission on its budget for 2014/15; (2) Agree the budget.

Risks and mitigations	
Financial:	OLC has its own Accounting Officer and is required to comply with Managing Public Money requirements.
Legal:	N/A
Reputational:	N/A
Resource:	N/A

Consultation	Yes	No	Who / why?
Board Members:	✓		Terry Babbs, Barbara Saunders and Anneliese Day were invited to comment on the submission
Consumer Panel:		x	
Others:	Who / why?		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
24	Section 36(2)(b)(ii) – information likely to inhibit the exchange of views for the purposes of deliberation	N/A
Annex B	Section 22 – information intended for future publication	

LEGAL SERVICES BOARD

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OLC Budget Executive Summary

Introduction

1. Part 6 and Schedule 15 of the Legal Services Act 2007 (**the Act**) describe the arrangements for the handling of complaints about legal services professionals and provide the framework for the relationships between LSB and OLC. Within the framework is the requirement that the LSB must approve the OLC's budget.
2. Whilst the LSB has a statutory responsibility to approve the OLC's budget, it has made clear in all years to date that it does not want to duplicate the work properly done by the OLC Board in scrutinising the basis on which the budget has been developed. As such, an approval process was designed to provide adequate assurance to the Board about the robustness of the OLC process rather than seeing the LSB conduct a de novo analysis. To assist with this, the Board provided OLC with a suite of criteria to address in its budget.
3. The OLC are proposing a budget of £13.9 million for 2014/15. This is a decrease of 11.9% from 2013/14 and £5.82 million since their first full year of operation in 2011/12 (in 2011/12 their budget was £19,720,000) . In 2013/14 the Legal Ombudsman (LeO) undertook a cost review in order to reduce their costs when the number of contacts that they had anticipated looked like it would not materialise. The reduced budget in 2014/15 anticipates further efficiencies throughout the year.

Statutory requirements

4. Para 23 of Schedule 15 to the Act concerns the OLC's budget and states:
 - a. The OLC must, before the start of each financial year, adopt an annual budget which has been approved by the Board (LSB).
 - b. The OLC may, with the approval of the Board, vary the budget for a financial year at any time after its adoption.
 - c. The annual budget must include an indication of:
 - i. The distribution of resources deployed in the operation of the ombudsman scheme, and
 - ii. The amounts of income of the OLC arising or expected to arise from the operation of the scheme.

5. The Act also prohibits the OLC from borrowing money without the consent of the LSB (or in accordance with a general authorisation given by the Board) and requires the OLC to give the LSB its statement of accounts for presenting to the Lord Chancellor and Comptroller and Auditor General on its behalf.
6. As an independent NDPB, the OLC has its own Accounting Officer, Adam Sampson, and Audit and Risk Committee. It has also its own independent sponsor-body/sponsor relationship with the MoJ in accordance with Managing Public Money. Hence, while the LSB approves the *level* of the budget, we do not have any 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.

Acceptance Criteria

7. The LSB require the OLC to address the following criteria in their budget submission:
 - I. A summary of the key risks to delivering the Plan for 2014/15 and mitigation proposed.
 - II. The volumes predicted for the year along with a sensitivity analysis illustrating the organisation's response should volumes fluctuate.
 - III. In accordance with the Act, an indication of the distribution of resources deployed in the operation of the ombudsman scheme and the amounts of income OLC expect to arise from the operation of the scheme. OLC were also requested to explicitly include within this breakdown staff costs and numbers broken down by function – for instance: enquiries; investigations; ombudsman team; corporate; others.
 - IV. A summary of where the Plan and budget has changed in response to stakeholder responses which should explicitly include the outcome of discussions with MoJ and the extent to which the final Plan and budget takes account of their input.
 - V. The OLC Board's current thinking on funding for take-on of any new jurisdiction – in particular the funding of planning and establishment work (albeit small) in advance of the take-on of any new jurisdiction bearing in mind that current work is being funded from the current approved regulator levy.

Review of assurances provided by the OLC board

Summary of the key risks to delivering the Plan for 2014/15 and mitigation proposed

8. The OLC have identified four key risks to delivering the plan in 2014/15 in section five (page 11-12). A brief summary of the risks and their mitigations are provided below:

- **Variations from planned contact and case volume.** The mitigation for this risk would depend on whether the variation led to a rise or fall in volumes. Action would be taken through their recruitment strategy and flexible working policies.
- **Planned investigator efficiency is not met.** This risk has been mitigated by making a prudent assumption on investigator efficiency based on actual achievement which is regularly monitored (this is reported in monthly KPI reports). In the event that levels of efficiency fell significantly, investigator resource would be adjusted.
- **Staff turnover varies significantly from the plan.** Depending on whether the rate of attrition rises or falls the management team will review staffing requirements to consider whether a redundancy programme is necessary or, conversely, will review activity and efficiency levels to determine whether a programme of recruitment should be initiated. In addition the management team have mitigated this risk further by planning to recruit and train smaller blocks of operational staff to enable them to more closely meet the demands of variations in activity.
- **Large legal costs associated with judicial reviews.** Due to the nature of any challenge (which may or may not result in significant financial impact), the OLC and management team manage this risk through regular discussion with General Counsel.

The volumes predicted for the year along with a sensitivity analysis illustrating the organisation's response should volumes fluctuate.

9. Section Four (pages 6-10) outlines the OLC's assumptions around anticipated volumes, case fees, pay and depreciation as well as a sensitivity analysis . It does not include a risk to meeting operational KPIs as a result of volume fluctuations but it is assumed that by taking the actions indicated in the paper the impact would be mitigated.
10. They expect a slight rise in contact volumes in 2014/15 however do not believe that this will be reflected in the number of cases accepted which will remain flat from 2013/14. Despite the signs of an economic recovery, which should increase volume, they expect the changes to Legal Aid to exert a conflicting downward pressure on volume. This and the natural delay between new legal activity occurring and complaints coming through should mean that there will be no material increase in contact volumes in 2014/15.
11. They have anticipated that the number of cases resolved will fall from 8,100 in 2013/14 to 8000 in 2014/15 due to changes that they have made to the approach they take before cases are accepted for investigation.

12. They expect to realise significant productivity gains from the new case management system which is due to be implemented during 2014/15. However, until the timing of implementation is known they have planned to resource their operations based on an efficiency level of around 7.7 cases per month per active investigator.
13. Section 4.5 outlines the impact that significant spikes in activity would have on the capacity of the organisation to deliver an efficient service and the plans that they have in place to respond to increases in demand. This is illustrated further in appendix 1.

An indication of the distribution of resources deployed in the operation of the ombudsman scheme and the amounts of income OLC expect to arise from the operation of the scheme. OLC were also requested to explicitly include within this breakdown staff costs and numbers broken down by function – for instance: enquiries; investigations; ombudsman team; corporate; others.

14. A summary of the budget showing income and expenditure for the year is provided in section 2 (page 4). This is supported by a breakdown of the anticipated headcount for the year and the budgeted figures for each functional area in section 6 (pages 13) and the breakdown of the OLC's costs by expenditure type and functional area in section 7.2 (page 14-15).

A summary of where the plan and budget has changed in response to stakeholder responses which should explicitly include the outcome of discussions with MoJ and the extent to which the final Plan and budget takes account of their input.

15. A summary of how the business plan and budget has changed following stakeholder and MoJ feedback is set out in section 3 (page 5). The feedback received did not result in any material change to either the plan or budget and was largely supportive of their focus on unit cost.
16. The OLC met Shailesh Vara MP in January 2014 and the strategy and budget was on the agenda for discussion; there were no substantive changes as a result of this engagement.

The OLC Board's current thinking on funding for take-on of any new jurisdiction – in particular the funding of planning and establishment work (albeit small) in advance of the take-on of any new jurisdiction bearing in mind that current work is being funded from the current approved regulator levy.

17. In section 3 the OLC make clear that the budget, financial and governance arrangements and KPI for taking on new complaints handling for Claims Management Companies (CMCs) will be set separately when there is clarity over when these arrangements will go live.

18. To date all activity around CMC complaints handling has been resourced from existing headcount and any costs will be ring fenced to ensure that there is no cross subsidy by levy income. Until the go-live date is known it is impossible to predict the volume of complaints that will come in and what, if any, the impact on unit cost will be. The pace that the complaints come in will also affect the volume – there may be a rush of initial complaints but settling down to a lower steady state.
19. The mechanism that will allow OLC to claim money back from the Lord Chancellor to fund complaints handling for CMCs was included in the Banking Reform Act. This will ensure that there is no question that this jurisdiction will be cross subsidised from the levy. As of March 2014 the timing for funding start up costs and the first year of operation were still being agreed with HMT.

OLC performance to date

20. Section 121 of the Act gives the LSB powers to set or direct the setting of performance targets for OLC in relation to any of its functions. The section gives the Board the power to take such steps as it thinks appropriate to monitor the extent to which OLC meets these targets. The Act specifies that the LSB's oversight is in relation to OLC functions, because of this our oversight is in relation to OLC's administration of the Legal Ombudsman scheme NOT the performance of LeO per se.
21. The KPI measures that we monitor are: timeliness, cost, quality and reputation and impact. The OLC/LeO occasionally refer to these having been agreed with LSB, however this is only on an informal basis. The LSB has not, to date, felt the need to exercise its powers under s121 to set or direct any performance target for OLC, having been satisfied with the KPIs OLC has set for LeO to date.
22. LeO's performance is generally within their KPI targets. Monthly variances tend to be resolved over a quarter. The exception to this has been unit cost which, until the last quarter, has consistently run above the agreed target of £2000. However, LeO's recent cost review, which resulted in a number of redundancies, appears to have addressed this somewhat (although that in itself has potential consequences for timeliness).
23. Quarterly KPI meetings with the OLC and LeO highlight other areas that help to give an additional view on the totality of their performance and a summary of LeO's recent performance to date is provided below:
 - Over the past year the range of data that has been presented has been affected by the cost review that took place over the summer. The impact of the cost review on performance is apparent in the number of cases that were resolved in the event, with a drop occurring at investigator and Ombudsman

levels due to both a high number of unpaid leave over the summer and morale being low.

- Contact levels have wavered in the last year and there has been speculation as to why this is the case. In Q1, the levels dropped despite moves by LeO to encourage previously premature complainants to lodge a case and a change in the scheme rules. By Q2 these levels had picked up and continued to remain ahead of anticipated levels during Q3.
- LeO has been consistently successful at meeting their timeliness targets. In 2013/14 their target for resolving cases within 90 days increased from 55% to 60% and so far this year they have exceeded this. The business plan for 2014/15 outlines a proposal to resolve 70% of cases within 90 days but there is nervousness about achievability if they have spikes in caseload. They have also added a target to resolve 40% of cases in 56 days.
- The level of work in progress for Ombudsman decisions regularly increases above acceptable levels. This has been caused in part by continual long term sick leave and the fact that the number of cases requiring an Ombudsman decision has always been higher than had been expected. This is an issue that LeO has struggled to manage but they have now developed an early warning process to ensure that the backlog is kept to a minimum. However following the cost review the backlog increased again as a result of their strategy to reduce the number of experienced, senior Ombudsmen and the impact that this had on morale, as well as continued long term sickness of a couple of Ombudsmen. As of Q3 the Ombudsmen work in progress reduced back down acceptable levels which LeO is confident can now be maintained.
- Until the last quarter the unit cost was running over the target of £2000 and had been for over a year. The outcome of the cost review has been to reduce the unit cost forecast for 2013/14 to £1,960.
- LeO has struggled to find a satisfactory way to measure quality and have settled on the satisfaction of their customers as the KPI. The results are reported separately for those who were satisfied with the outcome of their complaint and those that weren't but do not report an overall satisfaction figure. LeO have recently appointed a new company to carry out these surveys and it is hoped that they will provide a greater level of specificity for their future reporting.

24.

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

25. It is likely that future discussions will focus on how the OLC Board is ensuring that these issues are progressed.

Complaints handling for claims management companies (CMCs)

26. Following inclusion in the Banking Reform Act of the mechanism that will allow LeO to claim back money from the Lord Chancellor to fund complaints handling for CMC's, plans are now well underway for LeO to take on this jurisdiction.

27. Although they are still awaiting agreement from Treasury on how set up costs will be funded there will be no cross subsidiary of the Levy to fund CMC complaints.

28. As of February 2014 the planned date for commencement is October 2014. In order meet this date the relevant orders need to be drafted and consulted on before they are laid.

Recommendation

29. The Board is invited to:

- (1) Review the OLC's submission on its budget for 2014/15;
- (2) Agree the budget.