

To:	Board	
Date of Meeting:	30 November 2010	Item: Paper (10) 91

Title:	LSB / OLC joint Board meeting – 13 December 2010	
Workstream(s):	2 C – Improving service by resolving complaints effectively	
Introduced by:	Julie Myers, Corporate Director, julie.myers@legalservicesboard.org.uk / 020 7271 0059	
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Status:	Protect	

Summary:

The first joint meeting of the Boards of LSB and Office for Legal Complaints (OLC) is taking place on 13 December. In advance of that meeting, this paper provides:

- an agenda for the meeting
- a briefing note to provide context for the agenda as well as suggested questions that the Board might consider asking OLC (**Annex A**)
- a schedule of LSB and OLC governance interactions, as required by Legal Services Act 2007 ('**the Act**') and the joint Memorandum of Understanding (**MoU**) (**Annex B**).

After discussion with the OLC Chair and Chief Ombudsman, we do not propose that any substantive papers are produced for the joint Board meeting. Instead, the meeting will be discussion based. However, we will liaise with Legal Ombudsman (LeO) colleagues to ensure that the Boards are presented with the data and information that will help inform the discussion.

The intention of this paper is therefore to provide the Board with background information in advance of the meeting.

Risks and mitigations	
Financial:	N/A.
FoIA:	Pre-meeting assessment of exempted text is highlighted.
Legal:	N/A.
Reputational:	N/A.
Resource:	N/A.

Consultation	Yes	No	Who / why?
Board Members:	✓		Steve Green and Bill Moyes have reviewed the paper and provided comments. They indicated that they would like to see a presentation or information in advance of the meeting to inform the detail of the discussion at the joint meeting. We will raise this with LeO colleagues.
Consumer Panel:	✓		Steve Brooker, Consumer Panel Manager, advises that the Chief Ombudsman has also raised the issue of the jurisdiction of LeO with him (see Annex A , paragraph 11) and noted that the Panel has statutory powers to recommend to the Lord Chancellor to make an Order to alter the OLC's jurisdiction.
Others:	The Chairman has discussed the agenda with the OLC Chair and Chief Ombudsman.		

Recommendation(s):
<p>The Board is invited to note and to comment on:</p> <ul style="list-style-type: none"> (1) the agenda for the LSB-OLC joint Board meeting on 13 December; and (2) the Annexes to the paper and to advise whether any further information is required in advance of the joint Board meeting.

LEGAL SERVICES BOARD

To: Board	
Date of Meeting: 30 November 2010	Item: Paper (10) 91

LSB-OLC joint Board meeting – 13 December

Executive Summary

Recommendation(s)

The Board is invited to note and to comment on:

- (1) the agenda for the LSB-OLC joint Board meeting on 13 December; and
- (2) the Annexes to the paper and to advise whether any further information is required in advance of the joint Board meeting.

Background

1. Elizabeth France (Chair, OLC Board) attended Board meeting on 29 June to present the OLC's Annual Report 2010/11. In the course of that discussion, it was agreed that a joint meeting of the LSB and OLC Boards would be convened at Baskerville House shortly after the LeO opened (**Paper (10) 48** refers).
2. A meeting has been arranged for 13 December in order for the two Boards to discuss how the new LeO service is taking shape and how it is performing. The meeting will also provide an opportunity to take stock of the relationship between the two Boards and more specifically if it is working in accordance with the spirit of the Act.
3. The LeO service has now been in operation for almost two months.
4. The agenda (which was endorsed by the OLC Chair and Chief Ombudsman at a meeting with the LSB Chairman and Chief Executive) for the 13 December meeting is described below. This paper also contains a background briefing note (**Annex A**) and a schedule of the required formal interaction points between the two Boards (**Annex B**) as context for discussion.

Proposed agenda for 13 December

Item 1	Review of the first two months of operation of the Legal Ombudsman	<i>(Chair of the OLC)</i>
Item 2	OLC and LSB core priorities for 2011, including risk	<i>(LSB Chief Executive and the Chief Ombudsman)</i>
Item 3	OLC and LSB relationship building with the Approved Regulators	<i>(LSB Chief Executive and the Chief Ombudsman)</i>
Item 4	OLC and LSB relationship	<i>(Chairman of the LSB and the Chair of the OLC)</i>

08.11.10

Briefing note for joint LSB and OLC meeting

Areas for discussion, relevant background and questions for each item are set out below.

Item 1: Review of the first two months of operation of the Legal Ombudsman

Performance management of the Legal Ombudsman

1. It is intended that this item will cover a discussion about the number and type of complaints that the LeO is receiving and will tie in with the OLC Chair's suggestion at the 30 September Board meeting that some initial performance data would be shared by the OLC at the joint Board meeting. At that meeting, the Board also agreed that it would use the joint meeting to consider the robustness of OLC's processes for managing the performance of LeO.

Number of contacts and complaints to the new service

2. After 497 calls to LeO on the first day, as of the end of October a pattern of between 300 – 350 contacts per day was emerging as the norm. As of 1 November, the service had received 6,000 contacts, including 1,000 who, having listened to the introductory phone message had not continued. Of the remaining 5,000, the majority (as with other ombudsman schemes) had not yet complained to their lawyer. Of those still remaining, LeO started full investigations in 500 cases and had already closed around 60 files, all by informal agreement.
3. This is more or less in line with their forecast annual activity level. Bearing in mind that other schemes have started significantly below their eventual steady state, it is possible that the initial forecasts will prove to be underestimated.
4. Board Members might wish to ask about:
 - Whether the OLC has any concerns about the levels of contacts?
 - Whether there are any contingency plans for higher than predicted demand?
 - At what rate contacts are being converted in to actual cases?
 - Whether any cases have been through the full 'complaints cycle' yet?

Quality

5. When the Board endorsed LeO's performance framework at its 30 September meeting, its key concern was in relation to the KPI that measures quality. The Board will recall that in her paper, the OLC Chair proposed that the quality of the new service would be measured using a compound score consisting of timeliness, customer service and accuracy of decision making.
6. However, the Board suggested that the OLC should be providing the information separately in respect of each of the discrete indicators comprising the KPI, due to the risk of distortion of the figures. It was agreed that quality would be one focus of the LSB/OLC joint Board meeting.
7. Board Members might wish to ask about:

- What data the LeO has collected to date about quality?
- Whether there are any themes emerging?
- Whether any lessons have been learned yet?

The case fee mechanism

8. LeO's scheme rules allow it to charge fees on the closure of each case. However, lawyers will not be charged for the first two potentially chargeable complaints against an individual or firm within the same financial year, for any complaint that is not accepted (or subsequently turns out to be outside of LeO's jurisdiction) or for any complaint later abandoned by the complainant.
9. The Board might wish to ask about whether there have been any indications as to how many case fees are likely to be generated under the new system.
10. The Board might then wish to have a more detailed policy discussion with the OLC about some of the issues that have emerged.

Reserved/unreserved activities

11. The opening of the LeO has accelerated the emergence of this matter quicker than we previously thought. LeO is already having to reach a view on jurisdictional issues.
12. The Chief Ombudsman has already written about this on his blog on the LeO's website, providing the following examples of cases that had not been clear cut but which had been accepted into the scheme:
 - "a complainant was referred by a solicitor to a will-writing company of which he (the solicitor) was the director."
 - "an internet divorce company...staffed by lay people, it nevertheless boasted on its website of that its work was reviewed by an independent panel of solicitors, whom it named."
 - "a firm offering conveyancing to English people wishing to buy or sell property in France spoke of its "dual qualified" staff. But, these staff were not named and the website said that the firm was not regulated by the Solicitors Regulation Authority."
13. The Board might wish to ask about:
 - How the intelligence in relation to this issue specifically is being recorded, monitored and reported (it will be a vital component in informing our reserved and unreserved work)?
 - What seems to be the most obvious unreserved activity about which complaints are being received?
 - How, when and what do they propose to feed back formally and informally to Approved Regulators about both individual firms/practitioners and any conclusions they are beginning to form about the general issue?

Publishing information about complaints

14. The Act gives LeO the power to publish reports of its investigations and decisions. In September, LeO published a discussion paper for consultation to help consider what sort of information it will publish. The consultation will close on 23 December.

15. The paper identifies five main issues:

- Whether any information is published at all
- The types of cases published
- The levels of decisions published
- Identifying lawyers and legal firms by name
- The form of publication.

16. The Board will not formally respond to the consultation, however, if the matter is raised by the OLC, Board Members may wish to state their own personal views about publication of complaints data, with particular reference to the five issues listed above. The Legal Services Consumer Panel has indicated a strong preference for publication of complaints data.

Item 2: OLC and LSB core priorities for 2011, including risk

17. The intention of this item is to jointly focus the discussion on key priorities for both organisations for the coming year, based on the Business Plans, which will have been published for consultation by the time the Boards meet. This item should also help inform a discussion about risk, in particular the extent to which each organisation presents a risk to the other or where a shared responsibility for mitigation is evident.

18. The OLC's deliverables for 2011/12 include:

Process complaints in a shrewd, fair and effective manner offering a quality, value for money service

- Respond appropriately to judicial review challenges
- Undertake and close OLSO function
- Prepare for alternative business structures
- Review case fee structure
- Drive best practice
- Operate within resources.

Continuously improve processes and the resulting outcomes for consumers and the profession

- Improve productivity levels
- Undertake medium term organisational review
- Develop IT
- Build on, develop and refine knowledge management.

Build credibility and openly share best practice with stakeholders

- Enhance credibility with consumers
- Gain external recognition for customer services
- Enhance policy and communication capability
- Communicate knowledge effectively to the profession
- Enhance credibility with the profession
- Revisit MoUs.

Achieve organisational excellence

- Establish flexible working practices

- Stabilise staff team
- Embed effective performance management and career
- Progression systems [s22 & 36].

19.

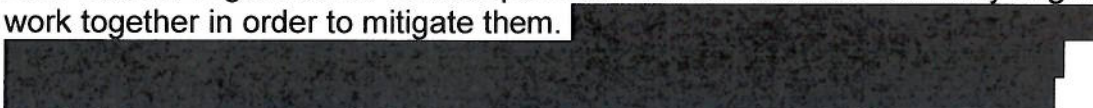


Risk – those that may impact on each other and shared risks

20. The Board considered an assessment of the risks posed by the LSB's relationship with the OLC at its 28 October meeting.

21. The Act does not provide the LSB with a specific role in respect of OLC risk management, given that it is a non-departmental public body, with its own Accounting Officer, Audit and Risk Committee and sponsorship relationship with MoJ. The statutory functions in respect of OLC, exposes the LSB (directly or indirectly) to a series of principally reputational risks, although the MoU provides some mitigation for these.

22. Both Boards might wish to reflect upon their shared risks and how they might work together in order to mitigate them.



23. The Board might wish to ask about:

- What the OLC considers its key risks in 2011 to be?
- Whether there are any risks that the OLC sees as being related to and based upon its relationship with the LSB?
- Whether the OLC feels that the MoU provides an effective basis for managing any risks between the two organisations effectively?

Item 3: OLC and LSB relationship building with the Approved Regulators

24. This will provide both Boards with an opportunity to pick up on any themes that are emerging in the relationship with the Approved Regulators. This will help assess whether there might be opportunities for shared working or where each organisation's policies may be directly or indirectly impacting on the other.

25. The Board might wish to ask:

- Whether the OLC has seen any evidence of the effectiveness of changes in first-tier complaints handling?
- How and when the OLC engages with the Approved Regulators, specifically at Board level?
- What the OLC's assessment of future challenges to the relationship that the OLC has with the Approved Regulators?
- The extent to which arrangements for identifying and passing on misconduct matters are working for all Approved Regulators?

Item 4: OLC and LSB relationship

26. **Annex B** sets out a schedule of the formal interactions that are required between the two Boards. The Board might wish to use this as the basis of an assessment of how the relationship between the two organisations is currently functioning and how it might function in future, both at non-executive and executive level.
27. It will also provide an opportunity for both Boards to formally sign-up to time lines in order to ensure that both sides meet their statutory obligations. The Board might also wish to reflect on the MoU and consider when it might be reviewed.
28. Questions that the Board might wish to ask:
- Should a regular joint Board meeting take place? If so, the most appropriate time might be just before the OLC's Business Plan consultation opens as the MoU requires a joint discussion about the budget pre-consultation (we propose September at **Annex B**). This would also allow the LSB to share its priorities for the year ahead;



Schedule of information sharing between the OLC and LSB Boards

Information for Board meetings

[REDACTED – FoIA, s22]