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**LEGAL SERVICES
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5 March 2012

Dear Elizabeth

OLC budget 2012/13

This letter is to thank you for the comprehensive submission made by the OLC to inform my Board's consideration of the annual budget of the OLC for 2012/13.

I am able to confirm that the proposed budget of £16,997,000 has been approved, subject to some specific assurances made to us by Adam, as the OLC's Accounting Officer and recorded in this letter. I would be grateful if these could be confirmed formally.

Specifically, my Board sought explicit assurance that your Board and Accounting Officer had properly assured yourselves that work relating to the establishment of voluntary jurisdictions was – or would be – properly accounted for so that the levy is not used for purposes that are contrary to the Act. (You will know that Section 173 explicitly excludes expenditure as may reasonably be attributed to the establishment of voluntary jurisdictions from classification as 'leviable expenditure').

Adam provided an assurance that current spend on this activity was not in any way significant in magnitude nor at any level of materiality. He confirmed that, at the point at which the work either reached a material stage, or the OLC Board moved to implementation work (whichever came soonest), a separate budget line would be created to record spend so that it could be accrued appropriately and recovered in line with the Act rather than from the current levy arrangements.

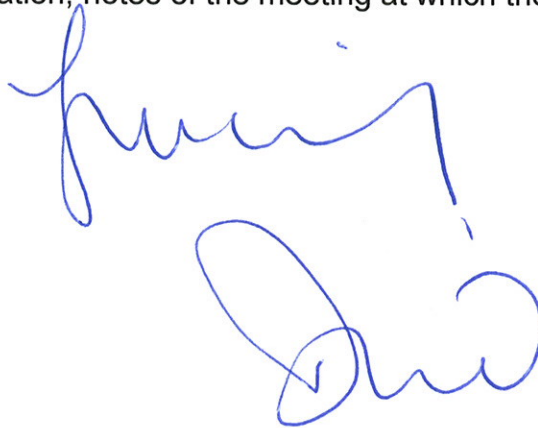
As the body with responsibility for collection of the levy, you will appreciate how seriously my Board takes its obligation to ensure that only correctly leviable expenditure is recovered from approved regulators.

Whilst not wholly related to budget approval, my Board also sought an assurance that our two executives would work together with the Ministry to develop an appropriate and workable timetable for any voluntary jurisdiction and I know this is an issue on which Chris and Adam are in regular contact.

One area where there has perhaps been less discussion to date is on your proposals for the development of case fees. Whilst we were assured that any proposals would not have an effect on the budget for 2012/13, as one of the bodies with a responsibility to consent to changes to the Scheme Rules, including case fees, I would welcome discussion on your proposals prior to your consultation.

In closing may I reiterate my Board's support and appreciation for the work being done by the OLC and the Legal Ombudsman scheme to deliver an important component of the legal services reform programme. It is clear that you remain on track to deliver a service that is quicker, cheaper and better than that which went before – the clearest indicator of success.

I enclose for your information, notes of the meeting at which the OLC budget was discussed.

A handwritten signature in blue ink, appearing to read 'David Edmonds', is written over the text of the letter. The signature is fluid and cursive, with a large loop at the end.

David Edmonds
Chairman

Enclosed:
Minutes of LSB meeting 29 February 2012

Minutes of a sub group of the Legal Services Board (LSB) held on 29 February 2012

Date: 29 February 2012

Time: 1.00pm – 2.00pm

Venue: Victoria House, Southampton Row, London WC1B 4AD

Present: Steve Green (Chair)
Chris Kenny, Chief Executive
Barbara Saunders
Andrew Whittaker

In attendance: Adam Sampson, Office for Legal Complaints (OLC) Chief Executive and Chief Ombudsman ('Chief Ombudsman')
Rob Hezel, Legal Ombudsman (LeO) Director of Finance and Business Services ('LeO Finance Director')
Edwin Josephs, Director of Finance and Services, LSB
Julie Myers, Corporate Director, LSB
Holly Perry, Corporate Governance Manager, LSB

Welcome

1. The Chairman welcomed those present and in attendance to the meeting.

Item 1 – Paper (12) 13: Office for Legal Complaints (OLC) Budget 2012/13

At its meeting on 25 January 2012, the Board had delegated authority to a sub group of Board Members to consider and approve the annual budget of the OLC¹ (paper (12) 09 refers). The Chairman confirmed that the intention was not to scrutinise the budget in detail, on the basis that the OLC would have undertaken this analysis. The sub group of the Board's role was rather to assure itself that the OLC had considered all appropriate aspects and had followed a robust process in recommending the proposed budget to the LSB Board. On this basis, there were a number of areas where the sub group of the Board required clarification:

Final business plan

The LSB had not yet received the final draft OLC business plan which the submitted budget was designed to deliver. The Chief Ombudsman confirmed that the OLC had signed off the draft plan at its meeting on 20 February, and final, cosmetic amendments were now being worked on. The final business plan would be available in time for the 28 March LSB Board meeting, which the OLC Chair would be attending. In the interim, the Chief Ombudsman agreed to send the LSB the draft plan as submitted to the OLC Board in February, in order that the LSB could tie back the budget to the latest iteration of the plan.

¹ Paragraph 23 of Schedule 15 to the Legal Services Act 2007 refers

Action: Chief Ombudsman to send copy of the plan as soon as possible

The rationale for the proposed total budget of £17m

The Chief Ombudsman confirmed that with a further three to four months' data, there was no evidence that demand was likely to reach levels originally anticipated. Performance data also support a trend for further improvement in case closure rates (now seven per month on average, from an earlier level of four to five per month). On this basis, there was a robust justification for the reduced, if riskier, budget proposal of £17m. The intention was to run the business as efficiently as possible.

Why a trigger of 10% was proposed as the level requiring additional budget authority and grant-in-aid cash-flow

The LeO Finance Director explained that the figure amounted to a reasonable estimate of the level of materiality. Below this level, it was felt that LeO would be capable of managing short term spikes in volume by cutting or reducing levels of discretionary spend. For a longer term rise in volume however, it would be necessary to increase resources, in particular, to employ additional staff.

The rationale for the baseline volume rise of 7.5% for 2012/13

The LeO Finance Director explained that an upturn in volumes was anticipated on the back of the expected 5% increase in legal services activity as the UK came out of recession. Together with a continued increase in awareness of LeO, including deliberate feedback to the profession on certain specific issues, the figures of 7.5% amounted to a 'best guess' volume rise estimate for the year ahead. This was felt to be a reasonable assumption. There had been little feedback on the figure of 7.5% in response to the draft business plan consultation.

Clarification on sources of income and expected changes to case fees in the context of the LSB's strong belief in the principle of 'polluter pays'

The Chief Ombudsman confirmed that LeO planned to go out to consultation in April on case fees, as part of the wider consultation on scheme rules. Pre consultation stakeholder engagement would be held in advance. Post consultation, a package would be put to the LSB for consideration and consent in September, before onward submission to MoJ in October. The intention was to complete the necessary Parliamentary process by the end of 2012.

The income generated by case fees had been much lower than expected and the OLC Board had debated extensively what option to pursue, with the spectrum of options stretching from setting a 'zero' budget through to substantially increased case fee level. Based on modelling undertaken so far, there was no justification for substantially increasing case fees, not least because however great the percentage increase, the proportion of income raised would always be proportionately low (for a range of reasons, including that the number of cases where case fees were waived was far higher than had been expected). The option of passing responsibility for determining the way in which case fees were distributed across the professions to Approved Regulators (ARs) was being

investigated, which would involve providing ARs with information on the level of transactions arising in their area. The ability to do this under the Act would need to be explored.

[The LSB Chief Executive left the meeting]

The LSB considered that an important principle was to put as many mechanisms in place as possible to reduce the level of legal services complaints and that higher case fees were a significant contributory factor in pursuing this tenet of reform in the legal sector. Further exploration of the issues was felt to be necessary. The Chief Ombudsman and LSB Chief Executive would discuss further with a view to this being a discussion topic for the joint meeting of the LSB and OLC Boards scheduled for 25 April.

The extent to which the final plan and budget would take account of MoJ and stakeholder responses

The LeO Finance Director confirmed that all points raised by MoJ had been dealt with and reflected in the revised budget and business plan (subject to the jurisdiction issue, which was discussed later in the meeting). On a point of clarification, the Chief Ombudsman stated that the OLC/LeO had not been classified as a non departmental public body at the point of inception and its legal status therefore remained unclear.

Clarification of the work under way on establishing voluntary schemes

The Chief Ombudsman confirmed that the OLC were looking into turning on sections 164 and 166 of the Legal Services Act 2007 relating to the establishment of voluntary schemes for resolving complaints. The Chief Ombudsman reported that Ministers had indicated that they would welcome the OLC taking on complaints handling in relation to Claims Management Companies (a separate issue).

On voluntary jurisdictions, LeO were already picking up a level of out of jurisdiction activity via their call centres, so were clear that the need existed, however the OLC were some way off signing off an extension of LeO's remit. There was considerable further exploratory work to undertake, which would need to dovetail with the LSB's work on scope of regulation. In terms of the timetable, LeO would look to take a package of possibilities to Ministers by the end of 2012. He confirmed that the OLC Board had signed off a suite of criteria against which they would judge any proposal to seek a voluntary jurisdiction.

Confirmation that the OLC Board and Accounting Officer had assured themselves that work related to the establishment of voluntary schemes was being properly accounted for and not met from levy funding

The Chief Ombudsman confirmed that all spend on exploratory work relating to CMC and voluntary jurisdiction was being met from within existing budget lines, specifically the ongoing work on jurisdiction boundary issues. The Chief Ombudsman (as OLC Accounting Officer) assured the LSB that current spend was

not in any way significant in magnitude nor had it reached any level of materiality. Activity was taking up a minimal amount of time (spread across a range of staff, and not amounting to one full time member of staff). The Chief Ombudsman confirmed that at the point at which the work either reached a material stage, or the OLC Board moved to implementation work (whichever came soonest), a separate budget line would be created to record spend so that it could be accrued appropriately and recovered in line with the Act rather than from the current levy arrangements. Consideration would also be given to internal audit input at the appropriate stage.

Additional observations in relation to bad debts

The Chief Ombudsman confirmed that the figures were net of bad debt.

[The Chief Ombudsman and LeO Finance Director left the meeting]

The sub group of the Board resolved to:

- **Agree the OLC budget for 2012/13, on the basis of the assurances received from OLC and its Accounting Officer and on the basis of receipt of the final draft business plan**
- **Agree a letter, to be drafted by the executive, for the Chair to send the Chair of OLC which:**
 - a) **approved formally the OLC budget for 2012/13 on the basis of the specific assurances received in the course of discussions at the meeting and:**
 - b) **requested that OLC and LSB work together with MoJ on an appropriate and workable timetable for voluntary jurisdictions**
 - c) **sought assurances from OLC that they would not consult on a case fee that was not workable or legal (from the perspective of the levy)**

Any other business

There was no other business.

HP 01.03.12

Signed as an accurate record of the meeting

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Date

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