



A work in progress

Office of the Legal Services Complaints Commissioner (OLSCC)
Annual Report 2007/2008

Key points

- Passing of the Legal Services Act – a momentous year.
- Regulation of Law Society's complaint handling is bringing results.
- Commissioner is positive about the future – tangible improvements made this year but still vital work to do.
- Current complaints handling system – must continue to improve for current consumers.
- Legal complaints handling entering transition phase – risks ahead – need to plan for the future.

Additional background about the Commissioner's Office:

- A quietly competent regulator.
- Proud of what achieved so far – driving force behind improvements over last few years.
- Looking forward to what we can achieve in future. Can't take foot off pedal – priority is to give Office of Legal Complaints a good start by getting Legal Complaints Service in better shape.

Lean, efficient,
value for money.



**Annual Report and Accounts of the Legal Services Complaints Commissioner
1 April 2007 to 31 March 2008**

Laid before Parliament by the Lord Chancellor pursuant to paragraph 5(4)
of Schedule 8 of the Access to Justice Act 1999

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Commissioner's Foreword

Please scan and insert attached picture and title:

Zahida Manzoor CBE

Legal Services Complaints Commissioner

Commissioner's Foreword

The legal profession may look no different today than it did when I published my last Annual Report. But it is. The Legal Services Act received Royal Assent in October 2007 and has given us the opportunity to bring about much heralded changes to the way legal services will be delivered and regulated, and, how legal complaints will be handled in England and Wales.

As both the Legal Services Ombudsman and the Legal Services Complaints Commissioner, I contributed to the Sir David Clementi review of legal services and the ensuing development of the Legal Services Bill. This included a Special Report that I published in June 2007 to set out my perspective on the legal reforms. I think few would disagree that this piece of legislation had a difficult 'birth' but the resulting Act has given us the ability to deliver a fresh start for consumers and providers of legal services. It is an opportunity we must not miss and I look forward to working with David Edmonds, the newly appointed Chair of the Legal Services Board (LSB), as he takes forward the development of the LSB and the Office for Legal Complaints (OLC).

However, the long-term good news that the OLC will be a new and independent legal complaints handling organisation – as the legal professional bodies will lose their complaints handling functions – does come with short-term risks for the consumer and the legal profession. The 2007/08 performance of the Law Society's complaint handling arm – the Legal Complaints Service (LCS) and the Solicitors Regulation Authority (SRA) - shows that although they have made progress they are not yet effective and efficient. Further improvement is still needed.

Consumers and legal professionals will be relying on LCS for another two years to provide them with a complaints handling service. It is likely in this time another 40,000 consumers could have their complaint handled by LCS. Let's remember that these are individuals who will already have suffered some anxiety by the time their complaint reaches LCS. They expect – and rightly so – that their case will be dealt with effectively and efficiently. This will help minimise the stress faced by individuals who use the service and restore consumers' confidence in the legal system.

LCS is now working within a timeframe in which to become effective and efficient – it is likely to close during 2010 (as is the Office of the Legal Services Complaints Commissioner) as it is anticipated that the new OLC will become operational by the end of 2010. We have a responsibility to ensure that the focus on the OLC and the setting up of its scheme rules is not a distraction for the Law Society and its complaints handling arm, which must continue to improve standards. Today's consumer must not suffer as a consequence of the future improvements planned for legal complaints handling, nor must backlogs in casework be allowed to build at LCS, which could later compromise the OLC's initial performance.

LCS closing =
short term risks
to consumer

Consumers are now receiving a faster and improving quality of service. This is good news and shows my targets are achieving tangible results. But, it has come at a financial cost that is no longer sustainable. This year, as in the past, the LCS response to poor effectiveness was to require increased investment from the Law Society. This must stop. For complaints handling to become more effective and efficient, LCS has to reduce costs, achieve better value for money and shift its resource focus onto the frontline. The Boards and management teams of the Law Society and the LCS must grasp this financial nettle. If efficiencies can be improved it will also help to avert a future risk of the OLC inheriting problems from the LCS – which in future the whole legal profession (not just solicitors) would have to pay for. It will be a priority for my Office to ensure, through target setting, that this risk is minimised.

In my last Annual Report I highlighted my concerns about the LCS and SRA handling of Coal Health Compensation Scheme cases. I noted that I may use my statutory powers to set specific targets if my concerns were not addressed. This has come to pass with a new target being set for 2008/09. In September 2007, I commissioned a second audit to verify if cases were being handled appropriately. The findings, published in a Special Report, were a major concern. It may be an unpalatable truth but mistakes were made in the handling of these complaints and it is time that this was acknowledged and we find closure on this issue. I am optimistic this can be achieved but only if the miners who suffered financially in the past as a result of LCS mistakes receive the redress they are due.

This Annual Report relays a mixed picture with regards to the LCS and SRA's complaints handling performance between 1 April 2007 and 31 March 2008. Although five of the 13 targets were not met, I was pleased that in the areas for which I set targets there was measurable improvement in performance, particularly with SRA. This increased level of performance should act as a platform for improvement in 2008/09. However, there are core business issues that were not addressed this year. For example, LCS's failure to progress their adherence to public equality and diversity duties is of concern to me and must be tackled urgently.

It is with surprise and frustration that I have to report that I did not consider the 2008/09 Plan submitted to me by the Law Society in March 2008 to be adequate for securing effective and efficient complaints handling. In June 2008, I imposed a penalty of £275,000 on the Law Society for the failure to provide an adequate plan¹.

I would like to take this opportunity to thank my Advisory and Consumer Board. I consider the input of the Board Members to have been invaluable and appreciate their ongoing advice and support. I would also like to thank my staff in the OLSCC – a lean and effective team - for their hard work, commitment and ability to rise to the challenges presented throughout the year. This has been against a background of uncertainty

1. This matter is reported in full on the OLSCC website: www.olscc.gov.uk

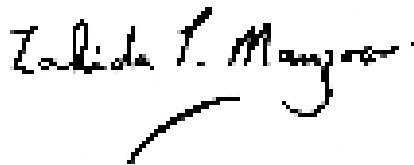
LCS costs
unsustainable

LCS performance key to keeping legacy work for OLC to a minimum

regarding when OLSCC will close. This makes their success all the more remarkable and I am sure they will continue to succeed for the next two years.

In a year's time, when my next Annual Report will be published, the structure of the LSB and the OLC will be emerging. There will be a clearer picture of what the scheme rules and structure of the OLC will be. For the next twelve months and beyond, I will continue to work with the Law Society on improving the current consumer and legal profession's experience of complaints handling provision. The better the complaints handling performance of LCS can become, the more we can minimise potential problems for the OLC – including the amount of legacy work it could inherit.

Achieving efficient and effective complaints handling for the solicitors profession and the consumer is not yet a finished piece of work. It is still a work in progress but I am optimistic that by OLSCC continuing to work in partnership with all our stakeholders, further improvements can be made.



Zahida Manzoor CBE
Legal Services Complaints Commissioner
30th June 2008



Executive Summary

Covering:

- * Role and powers of the Legal Services Complaints Commissioner
- * Law Society targets and Plan for 2007/08
- * Law Society performance against its Complaints Handling Plan 2007/08
- * Performance Summary
- * Factors affecting the LCS and SRA's 2007/8 Performance
- * Audit findings
- * Coal Health Compensation Scheme Audit and Special Report
- * The Legal Services Act 2007
- * Commissioner's targets for the Law Society 2008/09
- * Office of the Legal Services Complaints Commissioner activities
- * The Outcome of the Commissioner's Decision on The Law Society's 2006/2007 Performance

Role and powers of the Legal Services Complaints Commissioner

The role of the Legal Services Complaints Commissioner² is to regulate and work with the Law Society to ensure complaints are being handled effectively and efficiently. The Commissioner's powers are set out in the Access to Justice Act 1999 and include setting targets for complaint handling, making recommendations and requiring the Law Society to submit a Plan for the handling of complaints about its members. In addition, the Commissioner has the power to levy a penalty on the Law Society if it fails to deliver an adequate Plan or if it fails to handle complaints in accordance with that Plan.

Since January 2006 the Law Society has operated as three entities:

- The Legal Complaints Service (LCS) deals with complaints by consumers about the service received from their solicitor.
- The Solicitors Regulation Authority (SRA) regulates solicitors and deals with complaints where misconduct of a solicitor is alleged.
- The Law Society represents solicitors to protect and promote their work.

The Law Society remains the body over which the Commissioner has regulatory powers and is responsible for submitting a Complaints Handling Plan. However, the Law Society delegates operational responsibility for complaint handling to LCS and SRA. The funding for LCS and SRA is approved by the Law Society's Council.

Law Society targets and Plan for 2007/08

In October 2006, the Commissioner formally requested a Plan for complaint handling improvement to cover the period 1 April 2007 to 31 March 2008. This period represented the third year of working to Complaint Handling Plans for the Law Society's complaint handling arm. The Commissioner's four key aims for delivery during this period were for:

1. Improvements in timeliness to be built on and maintained
2. LCS and SRA to consistently apply their own policies and procedures
3. Wider business improvements within LCS and SRA
4. An emphasis on public interest matters (including vulnerable clients)

In December 2006, the Commissioner set thirteen targets³ covering timeliness (the speed of handling complaints), quality and implementation of the Plan.

Following a period of collaborative working between the Law Society, LCS, SRA and OLSCC, an adequate Plan for complaints handling, containing targets set by the Commissioner was in place during April 2007, earlier than in the previous year.

In addition to the targets set by the Commissioner, the Law Society's Plan also included three wider Complaints Handling Improvement Projects (known as CHIPs) – "building blocks" to support medium term organisational changes in process and delivery.

2. For ease of reference throughout this annual report, the Legal Services Complaints Commissioner will be referred to as the Commissioner.

3. One further target was set in year on 15 January 2008 relating to Coal Health Compensation Cases.

The inclusion of these projects within the Plan by LCS and SRA would enable close monitoring by OLSCC of delivery and outcomes achieved.

The CHIPs included in the 2007/08 Complaints Handling Plan covered: Equality and Diversity, an overall complaints handling process review and the publication of solicitors' complaints records.

Law Society performance against its Complaints Handling Plan 2007/08

The Law Society (LCS and SRA) met six of the 13 targets set for 2007/08, exceeded two and missed five. However, of the seven targets the Commissioner set relating to quality (six of which were measured through an appropriate audit sample), the Law Society met only two and missed five.

Performance Summary

- Improvements in timeliness:

1. Only a small number of cases open over 12 months old at the end of March 2008
2. 67% of cases closed within 3 months of receipt (77% achieved by SRA 63% achieved by LCS)

- A mixed performance on Quality:

Two targets met:

1. 97.1% of cases had certain standard information confirmed to customers/informants (against a target of 93%)
2. In 90.6% of cases sufficient information was given to the consumer to make an informed decision for conciliation or Reasonable Offer Made (ROM) (against a target of 85%) – this target was set for LCS only.

Five targets not met:

1. 92.3 % of cases acknowledged within 5 working days (against a target of 93%). LCS achieved 93.4% SRA achieved 89.2%.
2. 86.2% of complaints received a substantive response within 45 calendar days of receipt (against a target of 88%). LCS achieved 84.9% SRA achieved 90.8%.
3. The consumer/informant received a specified update in 79.9% of cases (against a target of 88%). LCS achieved 76.3% and SRA achieved 98.4%.
4. Consideration of a Special Payments award was in line with relevant LCS and SRA policy in 84.4% of cases (against a target of 85%). LCS achieved 81.8% and SRA achieved 94.1%.
5. The Legal Services Ombudsman (LSO) supported the handling of the case in 71% of cases (against a target of 73%). LCS achieved 67% and SRA achieved 81%.

- Implementation of the Plan – targets and recommendations met:
 1. At least 95% of the total budget was used to support the delivery of the LCS and SRA's 2007/08 Complaints Handling Plan.
 2. At least 95% of all resources (including staff, outsourcing and Local Conciliation Officers) was used in accordance with the 2007/08 Complaints Handling Plan.
 3. Priority Initiatives (the 3 CHIPs) to be delivered on time and within costs and all related milestones and benefits realised to support the delivery of the LCS and SRA 2007/08 Complaints Handling Plan.
 4. Progress against the 2007/08 Complaints Handling Plan, the Commissioner's targets and support key performance indicators reported to the Commissioner each month by agreed dates.

Factors affecting the LCS and SRA's 2007/08 Performance

- In 2007/08 LCS and SRA received 19,219 new cases, 785 more than they received in 2006/07. LCS and SRA jointly closed 18,534 cases during the year, 1,821 fewer closures than last year.
- The increase in cases received is linked to the 1,770 Coal Health Compensation Cases received in 2007/08 (up from 518 in 2006/07).
- Results against the targets for 2007/08 show a growing divergence in LCS and SRA performance. Jointly LCS and SRA have met two targets (Q2b and Q3) but failed to meet five quality targets (Q1, Q2a, Q4, Q5 and Q6). Individually, the results show that SRA, overall, performed more effectively than LCS, meeting all but one of the quality targets set.
- The Law Society contributed an additional £500,000 of funding in November 2007 in order to help LCS recover its performance to be more in line with the 2007/08 Plan targets as it was at that time falling behind.
- LCS stated delivery of targets and Improvement initiatives in the 2007/08 Plan would be assisted by the introduction of a new IT system during the Plan year (Visualfiles). Following a review by the Law Society in November 2007, the Visualfiles projected was halted in December 2007.

The Commissioner will decide whether the Law Society handled complaints in accordance with the 2007/08 Plan after taking into consideration all appropriate factors including the End of Year Audit data. Her intention is to notify the Law Society whether it has handled complaints in accordance with its Plan for 2007/08 by the end of June 2008.

Audit findings

OLSCC conducted four specific audits⁴ of LCS and SRA cases during 2007/08.

Audits undertaken in 2007/08 were:

- Quality of Outcome Audit
- Coal Health Compensation Scheme Audit
- Indicative Target Audit
- Year End Target Audit

A benchmarking exercise was also undertaken in June 2007 that evaluated various aspects of leading complaints handling organisations to identify industry best practice.

The Quality of Outcome Audit found that in just over 75% of cases, there was a prompt and competent investigation conducted by LCS and SRA with a reasonable outcome that met the needs of the consumer. However, in almost 25% of cases, consumers had an outcome that showed failings.

The Indicative Target Audit (ITA) reported on LCS and SRA's performance against the Commissioner's Quality targets set for 2007/08 (with the exception of the LSO target). The time period considered by the audit was 1 April 2007 to 30 September 2007. A total of 1,601 cases were audited and the results provided LCS and SRA with an indication of their performance against the Commissioner's targets to enable them to identify those areas requiring improvement. A number of areas of weakness were identified by OLSCC during the ITA and notified to LCS and SRA.

LCS not
yet effective
and efficient

The Year End Target Audit (YETA) was conducted in April 2008 (at the end of the 2007/08) Complaints Handling Plan Year) and measured the operational achievement of LCS and SRA against the Commissioner's Quality targets (with the exception of the LSO target). A proportionate sample of 1,898 case files together with information from 182 files previously selected for the ITA informed the results which gave the Commissioner a definitive assessment of LCS and SRA performance against the Quality targets. Results show that despite some improvements in all target areas set, there are still failures by LCS (and to a lesser extent SRA) to consistently apply their policies, processes and customer standards.

Coal Health Compensation Scheme Audit and Special Report

In January 2008, the Commissioner published a Special Report into the handling of Coal Health Compensation Cases by the LCS and SRA. This Report contained the findings of the second audit into this area conducted by OLSCC in September 2007.

4. Copies of all OLSCC audit reports can be found at www.olscc.gov.uk

The Special Report contained 11 issues to be addressed by LCS, one to be addressed by SRA and a target set for LCS to revisit miners' cases it had previously closed by conciliation.

OLSCC reviewed all 1,792 Coal Health cases received by LCS up to the point of the audit. The Commissioner was concerned to find that despite assurances from LCS that recommendations from the previous audit of this area had been addressed, problems in handling remained evident. The Commissioner considered this to be a public interest matter.

Miners continued to be issue 2007/08

The findings of the audit and Special Report were that some vulnerable miners had been financially disadvantaged by the way in which the LCS had handled their complaint. In particular, miners were not being given consistent information by caseworkers in order for them to make an informed choice about which route to take to resolve their complaint. Complaints being resolved by conciliation (where agreement was reached by the consumer to an offer made by the solicitor) were typically resulting in lower levels of redress than those being settled by adjudication. Adjudicators were making awards for distress and inconvenience as well as ordering repayment of any inappropriate deduction made by the solicitor. Conciliation outcomes were tending to focus on the repayment of deductions only. The difference for consumers was £1,700 on average.

The audit also found delays in the referral of cases involving alleged misconduct to the Solicitors Disciplinary Tribunal (SDT).

The Legal Services Act 2007

The Commissioner welcomed the Royal Assent of the Legal Services Act 2007 on 30 October 2007. The Commissioner had brought her perspectives on regulation of the legal profession and complaint handling to the debate on the developing legislation. She was pleased to see that a number of consumer focused developments were incorporated into the Act during the final stages including the requirement for the role of the Legal Services Board (LSB) Chair to be always held by a layperson.

The Act represents the opportunity for a fresh start for the profession and the consumer of legal services. The Commissioner welcomes the introduction of two new bodies, the LSB and the new and independent Office for Legal Complaints (OLC). The OLC will see complaints being handled independently of the legal profession and the Commissioner was particularly pleased to note that this will be established as a new ombudsman scheme. She is concerned that the transition to the OLC is effectively managed including that improvements continue to be made to the current complaints handling system.

Critical time for performance

Much of the detail of how the OLC and LSB will operate will be determined by the Scheme Rules to be developed when the organisations are established.

Commissioner's targets for the Law Society 2008/09

The Commissioner set targets for LCS and SRA to cover the period 1 April 2008 to 31 March 2009. She formally requested a new complaints handling Plan from the Law Society to cover this period in October 2007 with the targets being shared with LCS and SRA in December 2007.

The Commissioner's targets for 2008/09 reflect that this will be the fourth year of working to Complaints Handling Plans for the Law Society's complaints handling arm and the level of performance needed at this stage. Also, the Commissioner has set separate targets for LCS and SRA, reflecting the divergence in their performance and business structure.

The focus within these targets remains on maintaining timeliness of complaints handling, balanced with improved quality and consistency as well as the introduction of a new cost efficiency target designed to begin to bring down the average cost per complaint and improve value for money. The Commissioner made it clear that more efficient working was necessary, including a re-balancing of the number of support staff to case working staff within LCS, which are currently 45% to 55% respectively.

Despite a long period of collaborative working with the Law Society, LCS and SRA, the Plan submitted to the Commissioner in March 2008 was declared inadequate to secure efficient and effective complaint handling.

The Plan submitted to the Commissioner failed to include targets at the level she had set and nor was there sufficient confidence given that targets would be achieved. The Commissioner imposed a penalty of £275,000 on the Law Society for the failure to provide an adequate plan. The reasons behind this decision can be found on the OLSCC website⁵.



Office of the Legal Services Complaints Commissioner activities

In 2007/08 OLSCC has delivered a high standard of business and customer service, to the extent that many of the Office's best practices have been shared and adopted by our sponsoring Government Department, the Ministry of Justice. In particular, the annual budget has been managed to within 2% of expected expenditure, and OLSCC continues to provide a value for money service to all stakeholders, the legal profession and to consumers.

OLSCC staff have improved and enhanced the skills and experiences they bring to the organisation, seeking out developmental and training opportunities, and using these skills to improve the delivery of OLSCC business objectives. OLSCC has also widened its participation in local environmental and charitable schemes and has strengthened communications with all consumers of legal services through an improved web site and a number of challenging and informative publications.

5. www.olscc.gov.uk

The Outcome of the Commissioner's Decision on The Law Society's 2006/2007 Performance

The Outcome of the Commissioner's Decision on The Law Society's 2006/2007 Performance

In June 2007 the Commissioner notified the Law Society of her provisional decision that it had not handled complaints in accordance with the Plan submitted to her covering the period 1 April 2006 to 31 March 2007.

Over the summer and autumn 2007, there was an extended period of oral and written representations between the Law Society, Legal Complaints Service (LCS), Solicitors Regulation Authority (SRA) and the Commissioner. This period of representation was lengthened to accommodate separate representation from all three organisations – the Law Society, SRA and LCS – as opposed to previous years when the Law Society combined their representations.

In September 2007, the Commissioner announced her final decision that the Law Society had failed to handle complaints in accordance with its 2006/07 Complaints Handling Plan and in November 2007 she announced she would not impose a financial penalty on the Law Society for this failure. This decision was finely balanced but her conclusion was that not levying a penalty was appropriate in the circumstances to show support of the Law Society's commitment to improve. This was evidenced by the Law Society's provision of £500,000 for a 'recovery plan' to ensure LCS caught up ground it had lost and to meet the Commissioner's expectations as laid out in the 2007/08 Plan.

The Commissioner stated she would have been justified in imposing a penalty and that in not doing so she was extending considerable latitude to the Law Society. The Commissioner stated that she was very unlikely to extend the same latitude again and she expected all targets for 2007/08 to be met.⁶

6. OLSCC letter to Andrew Holroyd, OBE, President of Law Society 7 November 2007



Chapter 1

The Commissioner's 2007/2008 Targets

Commissioner's priority to improve consumer and profession's experience of complaints handling by LCS and SRA.

Key points

- 2007/08 is the third year Commissioner has set targets.
- Her key aims – improve timeliness; SRA and LCS to apply own policies; wider business improvements; emphasis on public interest matters.
- 13 targets set – 2 timeliness, 7 quality of complaints handling process, 4 utilising resources and undertaking improvement work listed in Plan.
- Early agreement on Complaints Handling Plan due to collaborative approach between OLSCC and the Law Society.
- Expectation of more proactive LCS/SRA in managing performance this year.

Additional background about 2007/08 targets:

- Poor performance in 2006/07 meant 2007/08 quality targets were process and standard focused again. Progress towards efficient and effective complaints handling slower than expected.
- Concerns about vulnerable consumers – miners – and LCS adherence to equality and diversity duties.

1. The Commissioner's 2007/2008 Targets

2007/2008 Target Setting

Introduction

The role of the Legal Services Complaints Commissioner⁷ is to regulate and work with the Law Society to ensure complaints are being handled effectively and efficiently.

The Commissioner was appointed in 2004. She has the power under section 52 of the Access to Justice Act 1999 to require the Law Society to provide information on how it deals with complaints; to make recommendations about the complaint handling system; to set targets for complaint handling and, require the Law Society to submit a plan for complaints handling – the ‘Complaints Handling Plan’ – which incorporates her targets. In addition, she has the power to levy a penalty on the Law Society if it fails to deliver an adequate plan or fails to handle complaints in accordance with that plan. The maximum amount specified is the lesser of £1m and one per cent of the Law Society’s annual income.

In January 2006 the Law Society divided into three organisations, each one with its own Chief Executive and in the case of LCS and SRA, their own Board. They operate as different entities, however, LCS and SRA remain part of the Law Society and its Council approves the budget for all three and is responsible to the Commissioner to deliver a Complaints Handling Plan.

The three organisations are:

The Legal Complaints Service (LCS) deals with complaints by consumers who are complaining about the service received from their solicitor. (Until January 2007, it was called the Consumer Complaints Service.)

The Solicitors Regulation Authority (SRA) regulates solicitors and deals with complaints where misconduct of a solicitor is alleged. There are links between LCS and SRA in relation to complaints handling, for example they share the same adjudicators.

The Law Society represents solicitors, to protect and promote their work.

Although the Commissioner’s powers relate to the Law Society as the professional body, LCS and SRA have been delegated the responsibility for submitting a Complaints Handling Plan to her. There is an overlap between the two organisations with regards to complaints handling and they submit a joint Plan; however, the overwhelming majority of the Complaints Handling Plan relates to LCS and the remainder relates to SRA. For example, during 2007/08 LCS received 14,514 complaints and closed 13,540 and SRA received 4,647 and closed 4,943. This report needs to be read in this context.

7. For ease of reference throughout this annual report the Legal Services Complaints Commissioner will be referred to as the Commissioner.

2007/08 was the third year that the Commissioner has set targets and requested that LCS and SRA submit a Complaints Handling Plan to show how they will deliver effective and efficient handling of complaints⁸. The slow pace of improvement in 2006/07 in key areas such as quality affected the level of targets the Commissioner was able to set in 2007/08. Targets were set lower in some areas than had been planned.

Commissioner's four key aims for delivery for 2007/08 were:

Improvements in timeliness to be built on and maintained

When developing the targets for 2007/08 the Commissioner was mindful of what had already been achieved with handling complaints more quickly but recognised that there was capacity to build on this further.

LCS and SRA consistently apply their own policies and procedures

As LCS and SRA were not consistently applying their service standards, targets set by the Commissioner focused on procedural aspects of quality. For example, ensuring that consumers are contacted at least every 30 days following the first substantive response. The lack of improvement in this basic area prevented the Commissioner from moving the targets on from process to focusing on the right outcome for the consumer and the profession.

Wider business improvements

The Commissioner set targets for the under performing areas of LCS and SRA operations to drive up improvement but she also turned her focus on wider business improvements. The Commissioner was keen to include the LCS and SRA Improvement Agendas, endorsed by their Boards, into the Complaints Handling Plan for 2007/08. Since her appointment in 2004, she has continuously encouraged the Law Society to look beyond the targets and consider improvements in complaints handling more broadly.

new for 2007/08

Emphasis on public interest matters

The Commissioner was concerned that LCS and SRA deal thoroughly with existing complaints from vulnerable consumers as well as taking proactive steps on awareness raising and stemming the flow of preventable complaints. In particular, the Commissioner wanted to ensure that in 2007/08, LCS and SRA implemented recommendations made by her in improving access and service to vulnerable clients including former miners and their dependants.

Strategic Priorities

To support her four key aims, the Commissioner set three strategic priorities. They provided balanced and complementary objectives covering all complaints handling activity within LCS and SRA where improvement was necessary.

Although the Strategic Priorities remained similar to the ones set in 2006/07 (speed of handling complaints, quality and successful delivery of the plan) the Commissioner's

⁸. Through this Annual Report those handling complaints are referred to as LCS and SRA for ease of reference.

targets and key performance indicators which underpin them were adjusted to reflect the specific areas where improvement was required.

- **Strategic Priority 1**

To improve the speed with which complaints are handled by LCS and SRA.

- **Strategic Priority 2**

To improve the quality of complaints handling by LCS and SRA.

- **Strategic Priority 3**

To implement LCS and SRA's agreed complaints handling plan

The three strategic priorities were assessed by a range of measures – including targets, key performance indicators and recommendations - designed to show how the LCS and SRA performed against various aspects of each priority.

2007/08 Targets

The Commissioner's targets and the requirements for the LCS and SRA Complaints Handling Plan were based on:

- the findings from audits and benchmarking work undertaken by her Office;
- the existing performance of LCS and SRA and their capability to improve;
- consultation with LCS, SRA and the Law Society;
- consultation with other stakeholders;
- adherence to the British and Irish Ombudsman Association (BIOA) principles of good complaints handling.⁹

The bringing together of these five areas of knowledge helps prioritise and set achievable targets for the LCS and SRA.

Thirteen targets were set¹⁰. The two timeliness targets focused on the number of cases closed within three months of receipt and on the number of cases open at twelve months or more. The seven quality targets focused on acknowledgement of the complaint; providing updates; substantive responses; communicating standard information; providing information on conciliation or Reasonable Offer Made¹¹ (ROM); Special Payments¹² and whether the Legal Service Ombudsman was satisfied by the investigation undertaken by LCS and SRA. The three implementing the plan targets focused on the budget, resources, delivery of initiatives and one target related to reporting of management information to the Commissioner.

9. Further information can be found on the BIOA website.

10. One further target was set in year on 15 January 2008 relating to Coal Health Compensation Cases

11. Reasonable Offer Made or ROM - Caseworkers can close cases on this basis if they are of the view that the solicitor has made a reasonable offer to conciliate the complaint even if the consumer does not want to accept it.

12. Special Payments - These are used to compensate the consumer for loss, inconvenience or distress caused by failings in the Law Society service.

Key Performance Indicators

Key performance indicators (KPIs) are not targets but provide valuable information about underlying drivers of performance. They are used to monitor performance over a wider breadth than the targets. The KPIs are summarised in the Complaints Handling Plan and their performance monitored by the OLSCC in monthly performance reports submitted by LCS and SRA.

Recommendations

The Commissioner makes recommendations with the aim of helping LCS and SRA improve their service to benefit the consumer and the profession. She expects them to be addressed by the LCS and SRA in a timely fashion or good reasons provided for why action is not feasible.

In 2007/08, the Commissioner made a number of recommendations to address areas of weakness, in particular, the LCS and SRA's development and implementation of change initiatives. The Commissioner notified the LCS and SRA that she would monitor their actions closely in response to these recommendations over the year and, if necessary, where action was not evident, consider introducing further targets within the financial year.

Agreeing the Law Society Complaints Handling Plan for 2007/08

The Commissioner's Office works on a continuous cycle to help the Law Society's LCS and SRA improve by assessing and reflecting on the success of targets set, setting new targets and requiring plans for the next Plan year while still undertaking the monitoring and assessing of performance for the existing year.

In July 2006, the Commissioner started to develop the targets for the following year (1 April 2007 to 31 March 2008). She was frustrated that due to LCS and SRA's poor performance in 2006/07 (five targets out of 13 in total were not met and by some margin) she had to continue many of the process focused quality targets again in 2007/08. The Commissioner had envisaged in her third year as Regulator that she would be setting targets to improve areas such as accessibility, reasonableness, and consistency of decision making¹³. Instead, because of the position LCS and SRA were in her targets had to measure adherence to their own internal policy, procedures and customer service standards.

In October 2006 she formally requested a Complaints Handling Plan from LCS and SRA. In December 2006, the Commissioner set her targets covering timeliness, quality of processes for complaints handling and implementation of the Complaints Handling Plan.

13. At the OLSCC launch in October 2004, the Commissioner expected a three-year programme, the first two years to make improvements to effective and efficient level and third year to sustain these improvements.

The Complaints Handling Plan lodged by the Law Society, LCS and SRA for 2007/08 had shortfalls in that it would benefit from including LCS and SRA's Improvement Agendas. The required changes were discussed with LCS and SRA, who in April 2007 lodged a new Plan. It incorporated the improvements that the Commissioner was seeking and was declared adequate.

The Commissioner was pleased that agreement of the Complaints Handling Plan had been made at a much earlier stage than the previous year's Plan and believes this was due to a collaborative approach by the OLSCC, Law Society, LCS and SRA and the shortfalls in the Plan not being directly linked to targets she had set. She praised the Law Society for committing, for the first time, to delivering wider business improvements within the Plan. She also warned the Law Society that she expected LCS and SRA to be more proactive in managing performance against targets and delivery of its Plan. The last two years had seen a reactive approach resulting in effort being made at the latter part of the year once there had been realisation that some targets were unlikely to be met. This approach, the Commissioner stated, would be unacceptable in 2007/08.¹⁴

Complaints Handling Projects

Following encouragement from the Commissioner, the LCS and SRA integrated three Complaints Handling Improvement Projects (CHIPs) into the Complaints Handling Plan. These CHIPs are seen by LCS and SRA as 'building blocks' linked to medium term goals and are concerned with fundamental organisational changes in process and delivery.

As well as improving internal processes they aim to better inform the public and stakeholders and encourage improved standards within the profession. CHIPs are structured into annual projects to show the objectives for the year. The Commissioner's approval has to be sought by LCS and SRA to change any timeframes or deliverables to the CHIPs.

CHIP 1 - Equality and Diversity

- Improving accessibility through reviewing the equality and diversity data they hold on consumers and solicitors, and using this to analyse the fairness of their policies and how they are being applied.

CHIP 2 – Overall complaints handling process review

- An overall complaints handling process review where it aimed to:
 - identify areas of potential avoidable delay;
 - identify unnecessary work steps;
 - develop and construct a business model to provide improved control and accountability;
 - encourage better process management; and
 - improve communication of agreed process via online process manual.

14. Letter, Commissioner to Professor Shamit Saggat, Chair of Board for LCS, 16 April 2007.

responsibility
to adhere to
public duty

CHIP 3 – Publishing solicitors complaints records

- As both LCS and SRA deal with complaints about solicitors, but from different perspectives, it is important that there is an effective interface between them and the Law Society, to enable sharing of complaint information, greater engagement with the profession and the provision of adequate guidance.
- Also included in the Plan for SRA, was the introduction of a new Code of Conduct; modernisation of regulatory decisions and the adjudication system; setting up a working group to look at and report back on post-qualification quality assurance of solicitors; and, an enforcement initiative on referral fees.
- The Complaints Handling Plan set out the work that LCS and SRA would undertake to publish the historical complaints records of solicitors; review the existing requirements for consumer guides; develop new ones where required; and, increase the awareness of services.

LCS and SRA delivery of the Plan is monitored over the year by the OLSCC via monthly management meetings, quarterly business improvement progress reports and internal and OLSCC audits.

A full copy of the Complaints Handling Plan can be found on the Law Society website.¹⁵

15. www.lawsociety.org.uk

Confirmation
received
Documents to be
load before
Parliament
9th July 2008

Drafter's note:
visit OLSCC website (www.olscc.gov.uk) to check
Complaints Handling plan.
Double check CHIPs



Chapter 2

Law Society Performance Against 2007/08 Complaints Handling Plan

Key points

- Six of 13 targets met, exceeded two and missed five.
- Fewer cases closed in 2007/08 than 2006/07.
- Quality and timeliness better across the board – **good news for consumer and profession.**
- Improvement and effort made by the Law Society/LCS/SRA but still some failures.
- Clear divergence between LCS and SRA progress in meeting targets.
- Getting more quality of processes right in 2007/08 has provided a platform for moving forward in 2008/09 but still more work to be done.

Additional background about 2007/08 performance:

- Since Commissioner appointed and set targets, number of older cases reduced substantially and complaints handled more quickly – good news for consumer and profession. Look at Target 11.
- Consumers/informants now receiving key information they need to make important decisions on their cases.
- Failure of LCS to contingency plan highlighted in halting of new IT system and the knock on effect it had to equality and diversity duties.

2. Law Society Performance Against 2007/08 Complaints Handling Plan

Background

Over the plan year, the OLSCC monitors the LCS and SRA's performance against their Complaints Handling Plan. This allows the Commissioner to build up a picture of progress and inform her end-of-year assessment on whether LCS and SRA have handled complaints in accordance with the Complaints Handling Plan submitted to her.

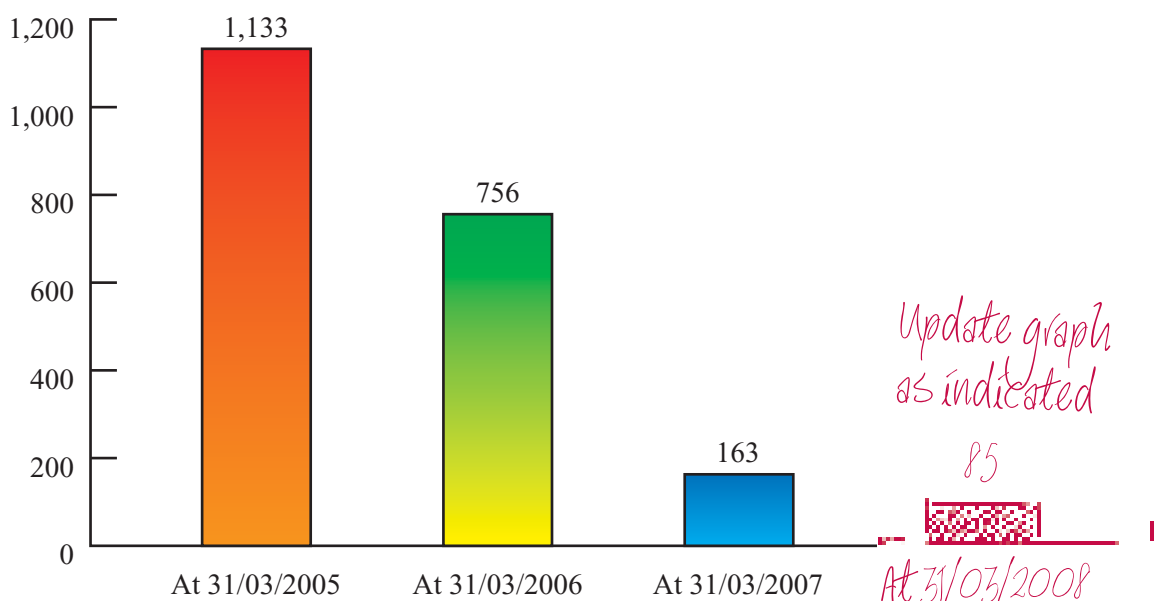
The Commissioner will decide whether the Law Society handled complaints in accordance with the April 2007 to March 2008 Plan after taking into consideration all appropriate factors including the End of Year Audit data. Her intention is to notify the Law Society whether it has handled complaints in accordance with its Plan for 2007/08 by the end of June 2008.

Overall performance

Overall, the LCS and SRA performance in 2007/08 has created a platform for improvement in 2008/09. Further improvements are still necessary and with the right level of commitment and effort, can be achieved. The LCS and SRA met six of the 13 targets set for 2007/08, exceeded two and missed five. However, of the seven targets the Commissioner set relating to quality, the LCS and SRA met only two and missed five.

Performance was up in timeliness target T2 (at least 67% of cases received are closed after 3 months of receipt) and Q6 (the Legal Services Ombudsman will support the LCS and SRA handling of the complaint in at least 73% of cases that are referred to her) compared to last year.

LCS and SRA Cases over 12 months old March 2005 to March 2008



The Commissioner is pleased the hard work undertaken by OLSCC, Law Society, LCS and SRA to drive improvements forward has resulted in consumers now receiving a faster and better quality service. Since setting targets from 2004, real progress in complaints handling has been made. The number of older cases has reduced substantially and complaints are now being handled more quickly. This is good news for both the consumer and the legal profession.

However, she continues to be concerned that there is a pattern of barely achieving certain targets. In both 2005/06 and 2006/07, the Law Society had a reactive approach to targets resulting in effort being made at the latter part of the year - once there was realisation that some were unlikely to be met. This approach, the Commissioner stated, would be unacceptable in 2007/08,¹⁶ but indications are that this response towards targets continued within LCS. The Commissioner believes LCS needs to have a more positive organisational culture towards targets and accepting improvements are still needed.

Quality Targets

Overall performance on quality improved, however consistency in quality is still lacking as highlighted in Q4. A most noticeable improvement was in the Q5 Special Payments target - with an improvement in performance of 36 percentage points. (In 2006/07 LCS and SRA achieved 48.4% whereas in 2007/08, 84.4 % was achieved against a target of 85%.)

2007/08 marks a growing divergence in LCS and SRA performance to meet targets. Of the seven quality targets set, SRA outperformed LCS in five areas. SRA actually exceeded the target levels set in five areas, whereas LCS only exceeded target levels in three quality areas. This divergence will become more evident following the Commissioner's decision to separate targets for the two organisations in 2008/09.

Number of complaints received and closed by LCS and SRA

From 1 April 2007 to 31 March 2008, LCS and SRA jointly received 19,219 new cases, including within LCS, 1,770 new Coal Health Compensation (CHC) complaints. Overall this is 785 (4%) more cases than they received in 2006/07.

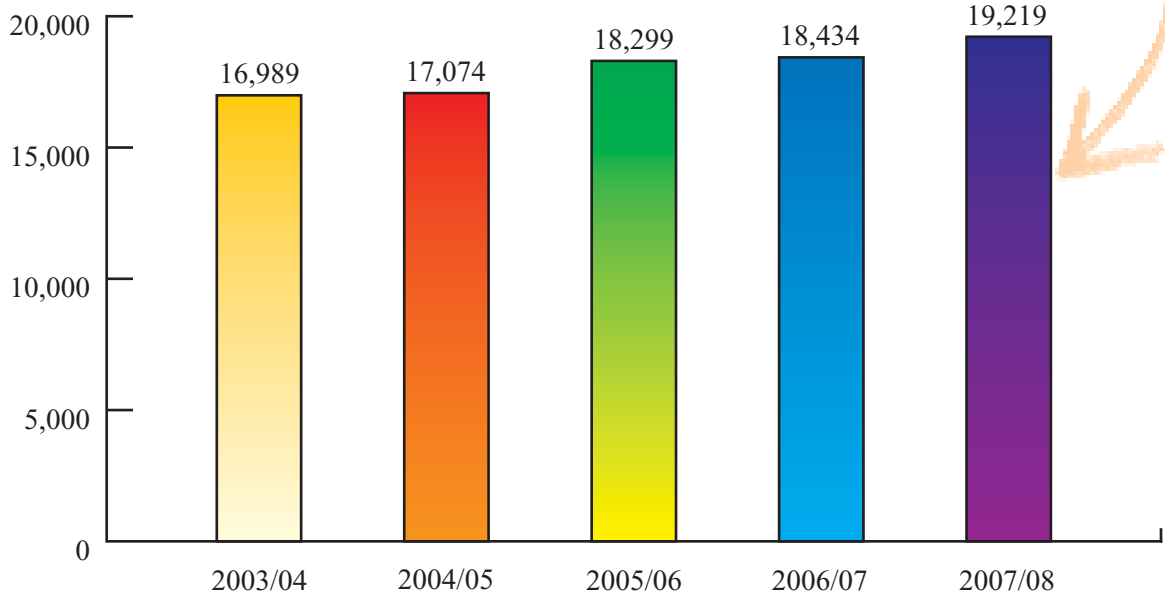
The overall number of cases referred to the Law Society's complaint handling body has increased since 2003/04 from 16,989 to 19,219 in 2007/08. The increase in complaints received in 2007/08 is linked to the 1,770 coal health compensation cases received by the LCS in this plan year¹⁷, compared to 518 coal health compensation cases received in 2006/07. The figures also indicate the underlying trend of in-house complaints to solicitors is not reducing. The Commissioner's view is the legal profession needs to undertake more work to address this.

16. Letter, Commissioner to Professor Shamit Saggur, Chair of Board for LCS, 16 April 2007.

17. The LCS conducted an awareness raising initiative with a specific community of former mineworkers in Rother Valley constituency during the summer of 2007 - known as the Rother Valley Pilot.

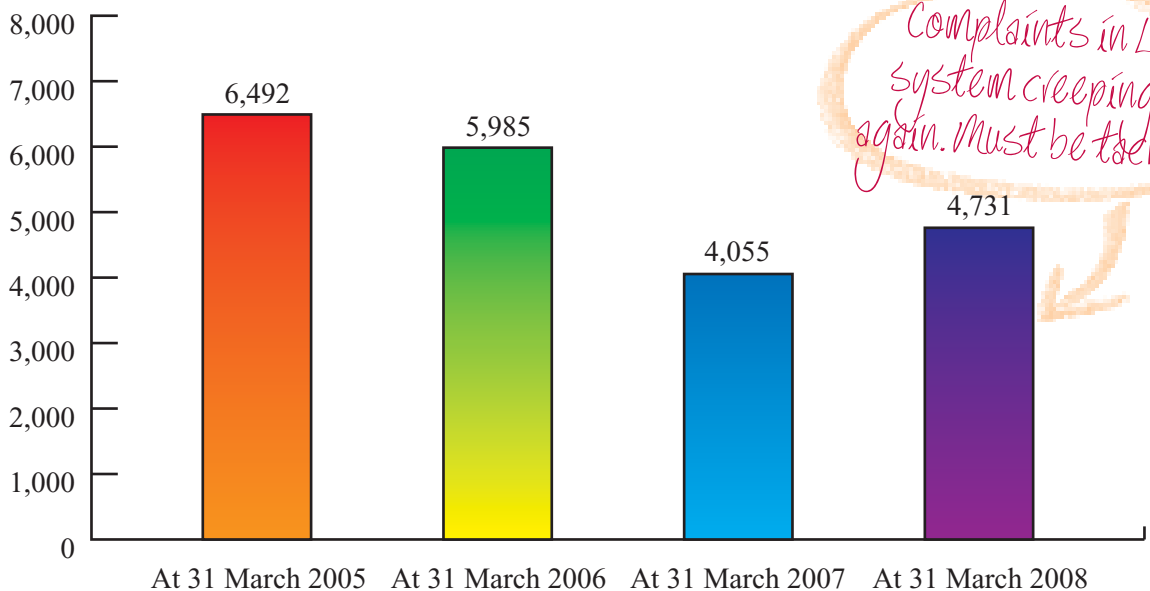
Must stem flow of new cases. Law Society - preventative work?

LCS and SRA Case receipts – End-of-year positions – 2003/04 to 2007/08



LCS and SRA jointly closed 18,534 cases during the year, which was 1,137 cases (6%) below their revised closure forecast, and 1,821 less closures than last year.

LCS and SRA Work in progress – End-of-year positions – 2004/05 to 2007/08

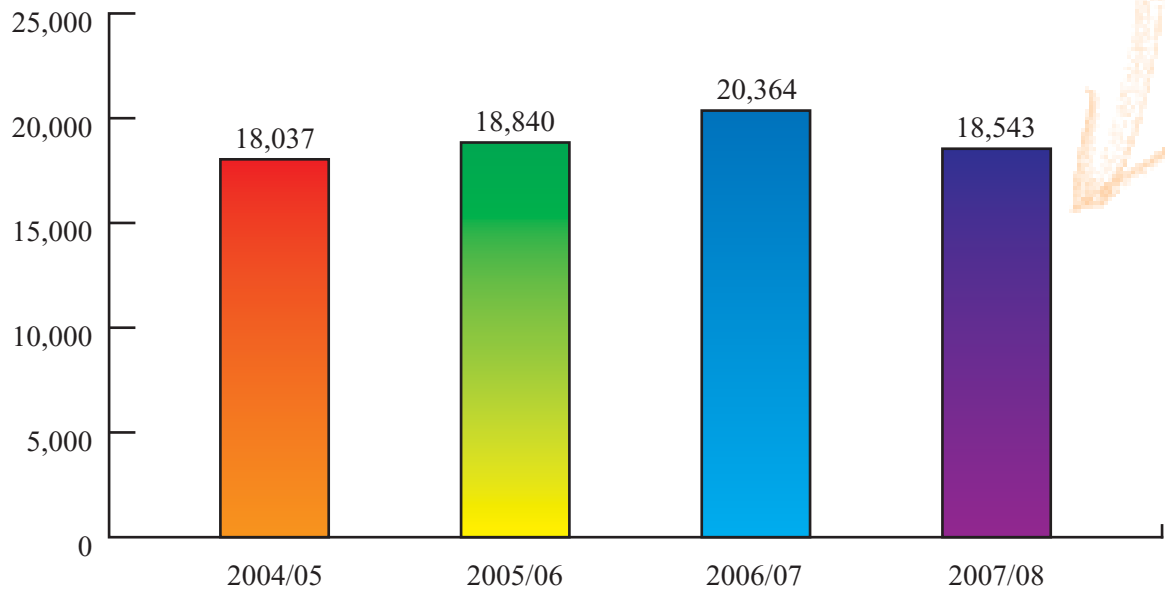


Complaints in LCS system creeping up again. Must be tackled.

At the end of March 2007, there were 500 unallocated cases (12.3% of the live caseload).

Fewer complaints closed on 07/08 than previous year. Productivity? What was effect of £500k cash injection?

LCS and SRA Case closures – End-of-year positions – 2004/05 to 2007/08



Budget

Budget information provided by LCS and SRA shows that actual expenditure for the period was £35.286 million. This is 1% above forecast spend of £34.934 million, and within 5% tolerance for the target. LCS expenditure was £30.926 million and SRA expenditure was £4.360 million. (These figures do not include the additional investment funding of £500,000 by the Law Society as part of the LCS recovery plan in autumn 2007). Whilst both organisations lived broadly within the funding provided to them, the cost of LCS complaint handling is considerably higher than most comparable organisations.

LCS Recovery Plan

In September 2007, the Law Society agreed with the Commissioner to provide an additional £500,000 to fund the LCS plan to recover performance against the targets and bring case closure back on track. LCS confirmed this money would be used to recruit additional temporary staff and employ more full time permanent staff, and increase the volume of cases to send to outsource firms. LCS confirmed that its actual spend against this additional investment would be measured and reported separately and that it would be used to address the shortfalls in all target areas. Despite being requested to do so, LCS did not provide any information to show specific benefits gained as a result of utilising this extra resource. This lack of information makes it difficult to reconcile the benefits LCS obtained from this additional £500,000 spend as targets were still missed and case closures were down on previous years.

Staffing

Although LCS and SRA have met the Plan target P2 to use at least 95% of their 2007/08 authorised staffing resource, of the 467.58 staff currently involved in complaints handling work, only 55% are operational case working staff with the remaining 45% involved in support activity. Temporary and agency staff costs were higher than predicted. The issue of a burgeoning support function is of concern to the Commissioner.

Commissioner's Strategic Priority 1

To improve the speed with which complaints are handled by LCS and SRA

Timeliness Targets

Timeliness Target T1

By the end of March 2008, to have no cases that have been open for 12 months or more. For Redress and Conduct (RDC)¹⁸ matters only, to have no more than 65 cases that have been open for 12 months or more.

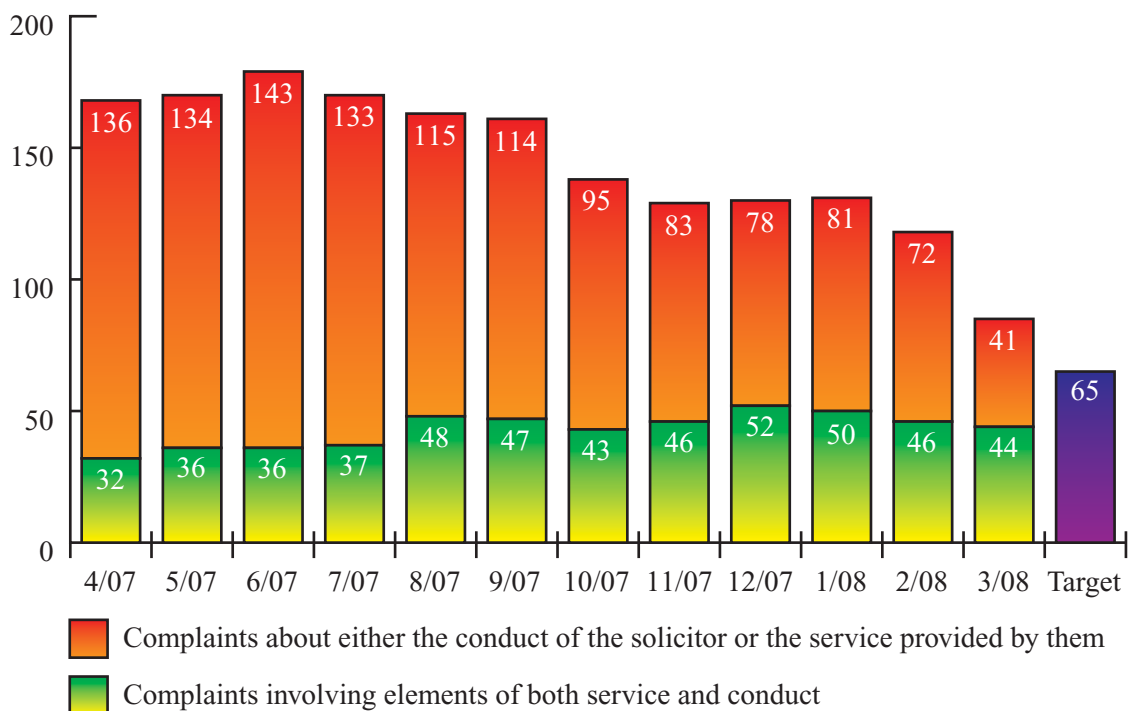
Reason for target

The majority of cases LCS receive relate to service issues; they are generally not complex and balanced with quality, can be dealt with promptly. This target was set to enable consumers to be confident that their cases will be looked at quickly and concluded in a reasonable time scale.

Law Society Performance – Target Met

When the Commissioner was first appointed in 2004 and set targets, there were 1,393 cases open over 12 months old. By the start of the Plan year in April 2007 this had reduced by 1,230 cases, down to 163. By the end of March 2008 this had reduced further, down to just 85 cases. Disregarding cases the Commissioner had agreed to exclude, there were only a small number of cases that LCS or SRA could action, still open over 12 months old.

LCS service and SRA conduct cases over 12 months old – April 2007 to March 2008



18. A Redress and Conduct case or RDC is a complaint which starts as a customer redress complaint with the LCS, then suggests aspects of misconduct which requires separate investigation leading to possible regulatory sanction by the SRA.

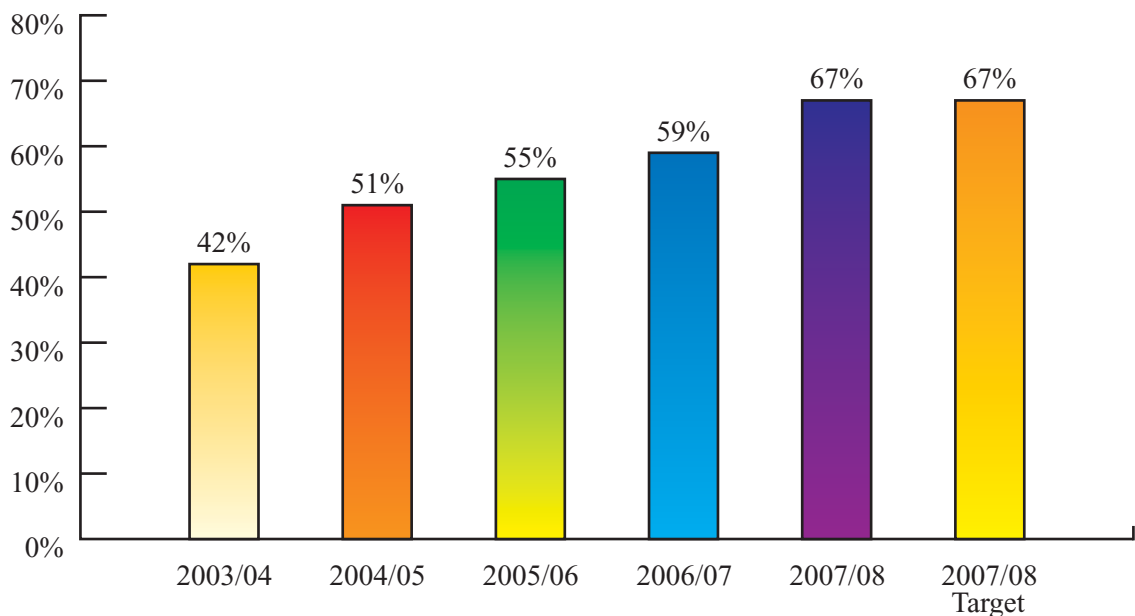
good news for consumer,
 progress needs to be built upon.

Whilst the Commissioner is pleased that timeliness is improving, she cannot ignore the number of cases that have become older and were 9 to 12 months old during the Plan year. Controlling the rollover of cases into the older age category is fundamental to sustaining performance and achieving future improvements so that no complaint takes longer than 12 months to conclude. LCS and SRA had committed in its Plan to reduce rollover to zero, this was critical to achieving this aim but also to making further progress during 2008/09.

Timeliness Target T2

At least 67% of cases received are closed within 3 months of receipt.

LCS service and SRA cases closed within 3 months of receipt – April 2003 to March 2008



Law Society Performance – Target Met

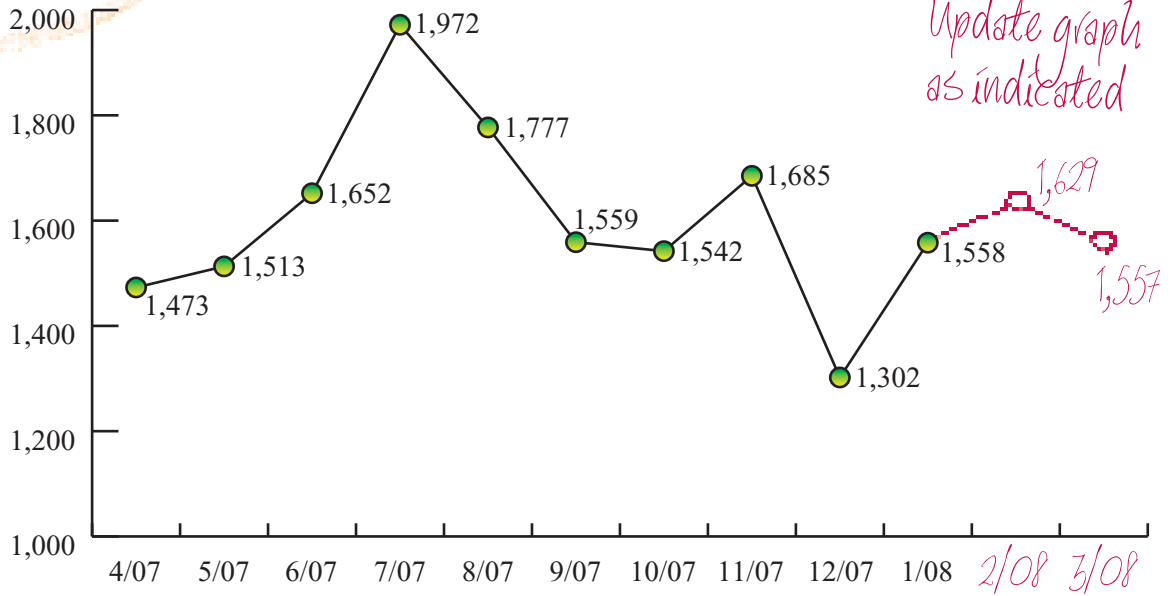
LCS and SRA achieved jointly 67% of cases closed within 3 months. However, separately LCS closed only 63% of cases within 3 months, and SRA closed 77%.

The Commissioner was pleased that overall this joint target has been met but moving forward LCS and SRA will have other separate targets, which will require them each to plan and deliver improvements accordingly.

During the year LCS reported that this target was impacted by the large volumes of Coal Health Compensation (CHC) cases received in July and August 2007 following the Rother Valley pilot. The significant increase in unallocated cases during the Plan year was also reported by LCS as a direct result of this increase in CHC cases.

peak caused by Rother Valley pilot

LCS and SRA case receipts – In-year trends – 2007/08.



Any difficulties subsequently attributed to the receipt of additional cases as a result of the pilot contradicts public statements made by LCS that its active awareness raising with regards to CHC complaints would not unduly put a strain on LCS resources¹⁹.

At various points over the year the LCS said: targets were holding LCS back from proactive work such as the pilot; the pilot was causing LCS to fail targets; and LCS resources and staff to undertake the pilot were in place with no impact on day-to-day casework. These contradictory messages coming out of the LCS via the media and board meetings resulted in a confusing picture relating to the Rother Valley Pilot and could have been avoided by more effective planning and impact analysis. Whilst the Commissioner supported the awareness raising in principle, she also expected LCS to plan and gear up to deal effectively with any increase in caseload seen as a result.

19. Law Gazette Article, 27 September 2007

Commissioner's Strategic Priority 2

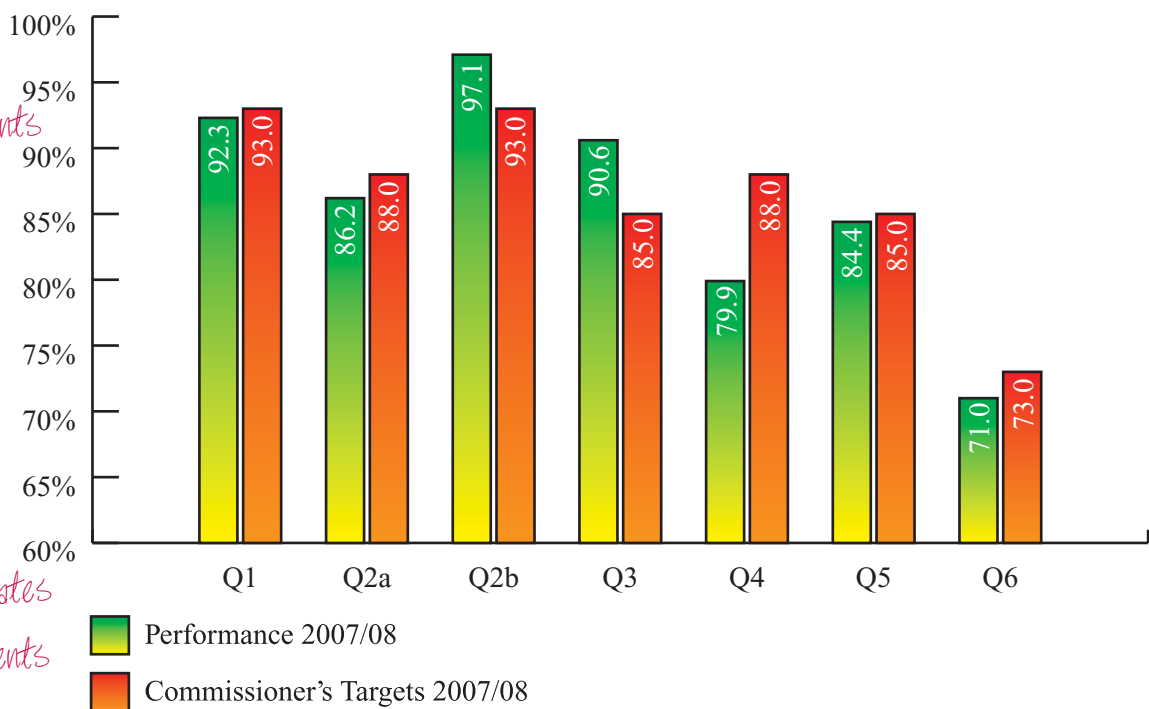
Commissioner's Strategic Priority 2 Improving the quality of complaints handling by LCS and SRA

Quality Targets

Quality targets Q1, Q2a, Q2b, Q3, Q4 and Q5 were all measured by an audit of appropriate samples of cases to determine whether each target was achieved.

LCS and SRA performance against quality targets Q1 to Q6 2007/08

- Key:
- Q1-Acknowledgements
 - Q2a-Substantive response
 - Q2b-Standard information
 - Q3-Sufficient information
 - Q4-Customer/informant updates
 - Q5-Special payments
 - Q6-Quality of decisions



Quality Target Q1

93% of complaints are acknowledged within 5 working days of receipt.

Reason for target

Acknowledgment of complaints from consumers should be consistently handled and comply with LCS and SRA's policies and procedures. This target was introduced as a result of an OLSCC audit in 2006 which showed that only 41.2% of cases were acknowledged within 5 working days.

It is important that consumers know that their complaint has been received, as they are then less likely to write or telephone to confirm receipt. Failure or delayed acknowledgment of a complaint may reduce consumer confidence that it will be handled effectively and efficiently throughout.

Law Society Performance – Target Not Met

LCS and SRA jointly achieved 92.3% against a target of 93%. LCS achieved 93.4% and SRA achieved 89.2%. This target has not been met but the Commissioner has noted the improvement in performance since the audit in 2006 and the amount by which the target has been missed.

In reaching this decision the Commissioner took into account the greater level of improvement in this area since her audit in 2006 when performance was at 41.2%.

Quality Target Q2a

88% of complaints receive a substantive response from LCS and SRA within 45 calendar days of receipt of the complaint.

Reason for target

This target measures the time taken to specifically identify the issues raised by the consumer/informant and to confirm action LCS and SRA are taking to deal with the complaint.

Law Society Performance – Target Not Met

LCS and SRA jointly achieved 86.2% against a target of 88%. Separately LCS achieved 84.9% and SRA achieved 90.8%. Last year, LCS and SRA provided substantive responses within 55 days in 78.5% of cases.

Quality Target Q2b

93% of cases to confirm certain standard information to consumers/informants:

- *LCS and SRA powers and processes*
- *internal complaints procedure*
- *confirmation by LCS and SRA to the consumer that their complaint or allegation of misconduct may be copied to the solicitor about whom the complaint has been made.*

Reason for target

This target was set to measure whether LCS and SRA informed the consumer/informant of certain standard information in the initial stages of their complaint. It was set because the OLSCC Annual Casefile Audit in 2006 showed that only in 10.3% of cases were consumers receiving all three pieces of standard information in the initial stage of their complaint.

This target enables the consumer/informant to make informed decisions by ensuring that LCS and SRA notify the consumer/informant of certain standard information at the initial stages of their complaint.

Law Society Performance – Target Met

The Commissioner is pleased to note that this target has been met. LCS and SRA jointly achieved 97.1% against a target of 93%. Separately LCS achieved 96.5% and SRA achieved 98.9%.

improvement compared to 06/07

A much-needed improvement has been achieved as a result of this target. Q2b contributed towards getting quality process basics right within LCS and SRA and setting the foundation for improving decision-making and the outcome of complaints in 2008/09.

Quality Target Q3

The consumer and solicitor will be given sufficient information, at an appropriate stage, to make an informed decision for conciliation or Reasonable Offer Made (ROM) in a timely way in at least 85% of appropriate cases. This must be sufficiently evidenced on the case.

Reason for target

This target only applies to LCS. This target measures whether the appropriate guidance in relation to the likely level of redress is shared with consumers and solicitors at the relevant stage of the case, to help consumers and solicitors make an informed decision in the resolution of a complaint.

Law Society Performance – Target Met

This target only applies to LCS, who achieved 90.6% against a target of 85%. The Commissioner is pleased that performance against this target has been exceeded. She also noted the level of improvement made compared to last year's performance where LCS gave customers and solicitors sufficient information to make an informed decision in only 81.7% of cases.

Quality Target Q4

Provide all specified customer/informant updates every 30 days or at key stages in 88% of cases.

Reason for target

This target measures whether LCS and SRA provide updates to consumers/informants on the progress of their complaint on at least a monthly basis or at key stages during the complaint.

Law Society Performance – Target Not Met

LCS and SRA jointly achieved 79.9% against a target of 88%. However, separately LCS achieved only 76.3% and SRA achieved 98.4%.

The Commissioner is concerned that LCS is still not adhering to its own policy and customer service standards consistently enough by ensuring that regular contact takes place to update the consumer/informant on the progress of their complaint. Although the Commissioner recognises the improvement that has been made compared to performance in 2006/07 this is the second year in succession that this target has been missed.

LCS not adhering
own policy &
customer
standards.
2nd year
missed target

Quality Target Q5

In 85% or more of cases closed on or after 1 April 2007, and aged six months and over:

- *consideration and/or award of special payment(s) must be in line with the relevant LCS and SRA special payment policy guidance and evidenced on the case; and*
- *there must be evidence on the case of a special payment consideration on closure that is in line with policy guidance.*

Reason for target

This target is intended to measure how well LCS and SRA apply their own procedures and policy in relation to making payments to the complainant where there are failings in their own service.

Law Society Performance – Target Not Met

LCS and SRA jointly achieved 84.4% against a target of 85%. Separately LCS achieved 81.8% and SRA achieved 94.1%. This is an improved performance compared to 2006/07 where only 48.4% of cases had consideration and/or award of special payment made in line with TLS own policy guidelines.

Quality Target Q6

The Legal Services Ombudsman (LSO) will support the handling of the complaint in at least 73% of cases that are referred to her.

Reason for target

The LSO to be satisfied with 73% of the LCS and SRA investigations referred to her by consumers.

If consumers are not satisfied with the way that the LCS or SRA has dealt with their complaint, they may refer the matter to the LSO for investigation. The Ombudsman will then carry out an independent investigation into that individual case and produce a report. The Ombudsman's reports highlight good practice and areas for improvement and help the LCS and SRA improve their service to consumers and legal practitioners. The measure of LSO satisfaction with LCS and SRA investigations acts as an indicator of the quality of decision-making by LCS and SRA, their customer service and administrative performance.

Law Society Performance – Target Not Met

LCS and SRA jointly achieved 71% against a target of 73%. However, separately LCS achieved 67% and SRA achieved 81%.

Performance against this LSO target has appeared on an upward trend since November 2007. Although LCS and SRA have not met this target for the third year in succession, performance has increased by four percentage points since the target was first set in this area in 2005.

**Commissioner's Strategic Priority 3
Implementing LCS and SRA's agreed Plan**

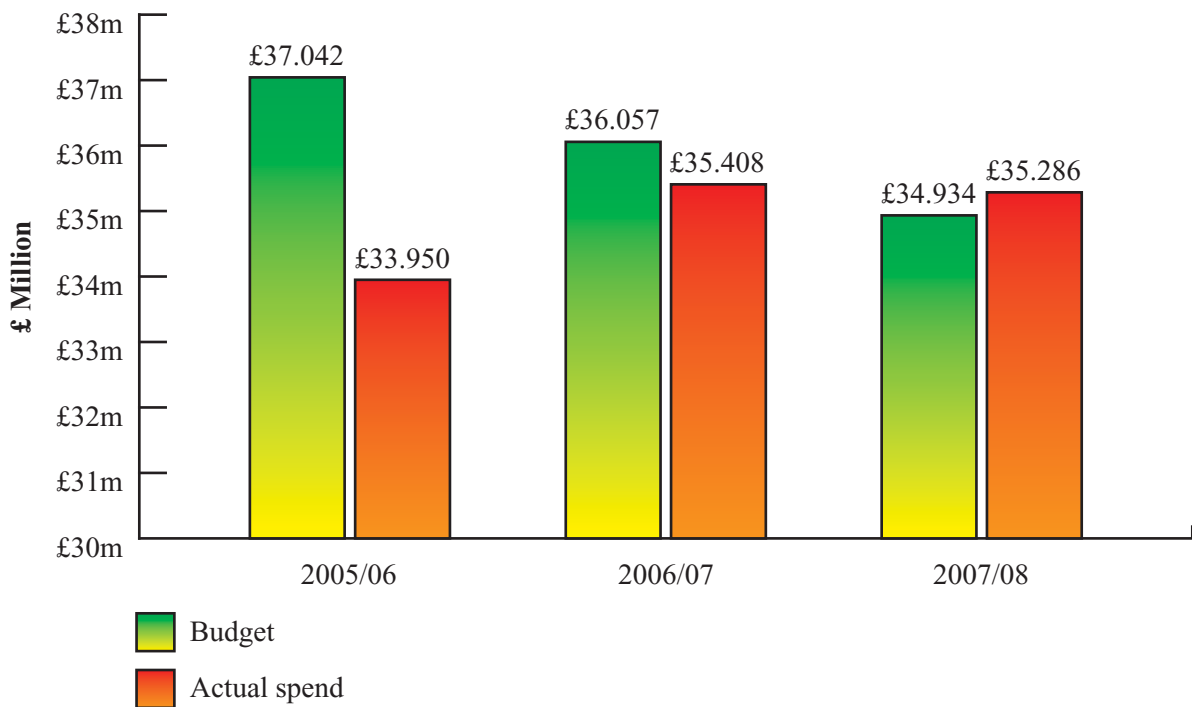
Implementing the Plan Targets

The targets set for implementing the Plan were not difficult ones to achieve but ones necessary to ensure that basic organisational and financial controls were in place to support the business. LCS and SRA had four targets relating to the implementation of the Plan; all of these targets were met.

Delivery of the Plan Target (Money) P1

At least 95% of the total budget to be used to support the delivery of LCS and SRA's 2007/08 complaints handling plan in accordance with the Plan.

LCS and SRA total spend against budget 2005/06 to 2007/08 and beyond



Reason for target

It is important that LCS and SRA deliver their Complaints Handling Plan within the context of a planned budget and within the resources they set out they need in order to deliver their business but at the same time providing a value for money service and making appropriate efficiency savings. In previous years, the LCS and SRA had failed to meet targets but at the same time had not utilised all financial resources available to them in order to enhance their capability.

Law Society Performance – Target Met

Budget information provided shows that the Law Society's total expenditure on complaints handling for the period April 2007 to March 2008 was £35.286 million, of which LCS expenditure was £30.926 million and SRA expenditure £4.360 million. This is within the 5% tolerance for the target.

Whilst this target was set in a climate when there was a failure to effectively manage finances, the Commissioner set the foundation last year through a key performance indicator to balance this with the need to significantly reduce costs and become more efficient. The 2008/09 target for reducing costs aims to achieve this.

Delivery of the Plan Target (Resources and Staffing) P2

At least 95% of all resources to be used (including: staff, outsourcing, Local Conciliation Officers) to support delivery of LCS and SRA's 2007/08 Complaints Handling Plan to be in accordance with the Plan.

Reason for target

To help ensure that the improvements can be delivered and that budget or resources are available to support them.

The Commissioner also made a recommendation linked to this target which was:

• Quality Recommendation Q/R3

It is recommended that LCS and SRA undertake a review of their use of outsourcing and develop a long-term strategy on its use, including how they can ensure they receive best value for money from this resource.

Law Society Performance – Target Met

LCS and SRA expected to have a total of 456 staff in post by the end of the Plan year, 393 within LCS and 63 within SRA. LCS and SRA reported that there were 468 permanent and temporary staff in post by the end of March 2008, which is within the 5% agreed tolerance.

The target for reducing costs during 2008/09 shifts the emphasis to efficiency with greater resource focus on frontline complaints handling, by reducing the burgeoning support function.

Delivery of the Plan Target P3

Priority initiatives (CHIP 1 - Improving gathering, recording and analysis of equality and diversity information, CHIP 2 - Overall Complaints Handling Process Review, CHIP 3 - Publishing Solicitors Complaints Records) are delivered on time and within costs and all related milestones and benefits realised to support the delivery of LCS and SRA's 2007/08 Complaints Handling Plan.

Reason for target

To help ensure LCS and SRA introduce good management tools to control the work they do and realise benefits for consumers. The Commissioner has made a number of recommendations to the LCS and SRA relating to issues linked to the CHIPs over a number of years. She has found in many instances, the implementation of projects has not been undertaken and projects have tended to 'drift' and remain at the data gathering stage. One example is the LCS equality and diversity project. Over an extended period of time, the Commissioner made LCS aware that it was not meeting its public duty in this area but the LCS continued to fail to address it.

She also made a number of recommendations linked to this target:

- ***Delivery of the Plan Recommendation PR2***

LCS and SRA should better assess the feasibility of their improvement work before inclusion in their work programme and also before implementation commences.

- ***Delivery of the Plan Recommendation PR3***

LCS and SRA should improve their use of evaluation techniques, to ensure they understand where their change work has resulted in improvements and where they need to do more.

Law Society Performance – Target Met

Due to the high level scoping by LCS and SRA of the projects in the Plan it has not been possible to fully assess the level of achievement or specific measurable benefits, if any, that were brought about by the LCS and SRA initiatives. There is a clear lack of measurable benefits for the CHIPS and it is only possible for OLSCC to measure the agreed deadlines. LCS and SRA met the agreed Project deadlines.

It emerged retrospectively from the LCS that activities and deadlines within the CHIPs were reliant upon delivery of its new IT system Visualfiles. The Commissioner recognised the difficulties encountered by the Law Society and LCS with implementing the new Visualfiles system. She is of the opinion that no consideration was given to the need for effective contingency plans should the IT fail to be implemented successfully. It did fail and had to be halted. The Commissioner views contingency planning to be basic risk management within projects, the principles of which failed to be considered sufficiently by LCS as the chief benefactor of the system.

During the year, the Commissioner raised concerns regarding Project Assurance, particularly in relation to non-compliance with the agreed LCS change control process. Two change requests were received late (CHIPs 2 and 3), and in one case after the revised action had been taken by LCS and without consultation with the Commissioner. It is important that LCS manages changes to the Plan by the agreed process, and consults with its stakeholders as appropriate prior to any implementation or changes being introduced.

LCS activities over 2007/08 in relation to various CHIPs also indicates it is not delivering initiatives effectively. Initiatives are announced, scoped, invested in, and consulted on but not necessarily delivered. This was highlighted this year with the proposed introduction of the publication of solicitors' complaints records. The Commissioner considers that organisations at the level of maturity of LCS and SRA, should be focusing on achieving planned benefits and value for money from any initiatives introduced. There is now a limited timescale (with the closure of the LCS envisaged during 2010) for any benefits from initiatives to be gained within the lifetime of the organisation.

Delivery of the Plan Target P4

Progress against LCS and SRA's 2007/08 Complaints Handling Plan, the Commissioner's targets and supporting KPIs is reported to the Commissioner each month showing monthly and year-to-date information (dates were agreed for the Commissioner's monthly performance report at the start of the 2007/08 plan year). This report should also show, at least on a quarterly basis, the findings of LCS and SRA's own internal quality audit report.

Reason for target

To ensure that LCS and SRA report progress against the 2007/08 Complaints Handling Plan on dates agreed between them and the Commissioner.

Law Society Performance –Target Met

All monthly and quarterly progress reports were received by the agreed deadlines.

Recommendations

Throughout the year the Commissioner can make recommendations to the LCS and SRA in areas they can improve on. They are informed from a number of sources including:

- OLSCC target setting process
- OLSCC audits
- Benchmarking against other comparable organisations
- Monitoring of KPIs

Since March 2007, OLSCC has undertaken a number of audits resulting in 30 new recommendations being made. There are also a number of older recommendations relating to earlier years, which are subject to on-going review by OLSCC.

Based on information available to her, the Commissioner has acknowledged that, in some form, LCS and SRA have acted upon all recommendations made. However, it is difficult to measure fully the direct impact of any improvement made to complaints handling without undertaking specific audit activity. The Commissioner has stated the LCS and SRA need to track the impact of their actions to ensure genuine benefits are achieved.



Chapter 3

Commissioner's Audit Findings

Key points

- New for 2007/08 - the Quality of Outcome Audit. It provided the Commissioner with a baseline for measurement of quality of caseworker decision-making.
- More work to do on ensuring consistently fair and appropriate outcomes. Almost 25% of cases had failings.
- The Coal Health Compensation Scheme Audit allowed the Commissioner to establish comprehensive evidence and identify issues of concern.

Additional background about the audit findings:

1. Indicative Target Audit gave the Commissioner indication of mid-year achievement against quality targets set.

2. The Year End Target Audit provides full and final assessment of 2007/08 operational performance and informs Commissioner's decision on complaints handling

3. Commissioner's Audit findings

Introduction

There are **two dimensions** to the work of the OLSCC Research and Investigations team. Primarily the team **collects detailed information** and **undertakes regular audits** to provide the Commissioner with **independent assurance** about the accuracy and level of service supplied by LCS and SRA in terms of performance, and quality of work conducted by LCS and SRA. It **investigates existing LCS and SRA processes and policies** within the complaints system, gathering information on compliance, and identifying trends. The team **also researches and benchmarks other organisations comparable to the Law Society, LCS and SRA.**

This **information gathered** is used by the Commissioner to **provide feedback and recommendations to LCS and SRA, and, to inform future targets.**

The audits undertaken in 2007/08 were:

- Quality of Outcome Audit
- Coal Health Compensation Scheme Audit
- Indicative Target Audit
- Year End Target Audit

Copies of these reports can be found at www.olsc.gov.uk.

The team also carried out a further benchmarking exercise. In June 2007, it evaluated various aspects of leading complaints handling organisations to identify industry best practices that lead to improved performance.

A New focus on outcomes for 2007/08.

Audit Activity from 1 April 2007 to 31 March 2008

Quality of Outcome Audit

The Quality of Outcome Audit was commissioned to establish whether LCS and SRA caseworkers were achieving a **fair and reasonable outcome for consumers** through their decisions and the appropriate application of their administrative procedures. It also served to provide a baseline from which progress in performance could be measured, should the Commissioner decide a target in this area would bring about greater improvement for the consumer.

Previous OLSCC audits have focused mainly on the adherence to work processes (for example, how long it takes LCS and SRA to acknowledge a complaint) in the context of their existing policies, and, as a way of measuring the standard of complaint handling by LCS and SRA. Consequently, the audits to date, have predominantly concentrated on the means by which a caseworker reaches a conclusion for the consumer, rather than on the quality of the actual outcome itself and whether this is fair and reasonable.

The **Quality of Outcome Audit** marked a departure from previous audits in that it placed **more emphasis on the determination of the quality and impact of the caseworker's decision-making on the whole consumer experience**, rather than just on any individual process based measures.

This change in focus acknowledged the progress made so far by both LCS and SRA in respect of improvements overall in the speed with which consumer complaints are now handled.²⁰ But the new focus also recognised the need to target the quality of caseworker decision-making in order to secure consistency and a fairer and more reasonable outcome for each person that complains to LCS or SRA.

A total of **524 cases**, spread across two discrete samples, one for service files (LCS) and a separate one for conduct files (SRA), were selected for audit. Choosing **separate samples** enabled the audit team to **make comparisons** between the two types of file and comment on the differences found between them. Each of the samples consisted of cases closed between 1 May 2006 and 30 April 2007 and was representative of the age profile of the population.

The results from the audit showed that, in the period 1 May 2006 to 30 April 2007, **11% of all complaints about a solicitor had failings that were so significant that they were considered to have resulted in a negative impact on the outcome for the consumer** - either during resolution of the complaint or on its conclusion.

20. For example, the percentage of case files experiencing progress delays reduced by ten percentage points from 29% in 2005 to 19% in 2006, and the average length of that delay also reduced from just over 5.5 months to just under 4.5 months, during that same period. Taken from OLSCC annual case file audit, November 2005 and September 2006

In these cases, the auditors found a general lack of consumer focus in a number of areas, particularly around poor caseworker decision-making and management of casefiles. Specifically, the audit team had concerns around insufficient investigation, inadequate management of consumers' expectations and the provision of belated and incomplete explanations to the consumer by some caseworkers. For example:

Case Study

In a complaint about a matrimonial case, the consumer had alleged conflict of interest, breach of confidentiality and taking unfair advantage by the solicitor. An SRA caseworker dealt with the complaint for a period of a year on the basis that the case had merit in terms of potential misconduct. Correspondence to the consumer stated that a formal report was being prepared for adjudication and letters to the solicitor clearly identified issues with their conduct. There was a change of caseworker two months before the file closed and the new caseworker took a markedly different approach liaising mainly with the solicitor. This caseworker found no evidence to suggest misconduct and the file was closed without giving the consumer a chance to respond or to understand why there had been a change in approach. The consumer wrote to SRA with a list of issues following receipt of the closure letter but because the file had already been closed the letter was treated as an internal complaint and therefore the caseworker's decision was not reconsidered, only the process through which it was arrived at. The only recourse remaining to the consumer, as their case was now closed, would be to write to the Legal Services Ombudsman. As well as evidence of significant avoidable delay totalling ten months, this case shows that the consumer's expectations of the outcome in this case were wholly mismanaged.

In contrast, however, the audit also found some examples where the caseworkers had made good decisions and provided a fair and reasonable outcome for the consumer. For example:

Case Study

In this personal injury case the consumer was Somalian and had raised a number of issues within their complaint. The complaint was raised outside Law Society time limits and because of this the LCS caseworker could not investigate the complaint. However, the caseworker recognised the needs of the consumer and communicated with them in writing as they had hearing difficulties. They provided these written communications in both English and Somalian and when the consumer questioned the case closure, the caseworker arranged for a Local Conciliation Officer (LCO) to visit them with an interpreter present. This ensured that the consumer was given a clear understanding of why LCS could not take the matter forward, and clearly managed expectations.

Case Study (to be inserted)

In this case the consumer advised LCS that as he was partially sighted, all correspondence needed to be in a large font type. The acknowledgement letter to the consumer was issued in normal size font despite this request and the consumer was unable to read the letter. The consumer complained to the LCS caseworker and they agreed to ensure all subsequent contact was by phone. Although this did not affect the outcome of the case, the consumer suffered unnecessary inconvenience.

Insert case study here

This audit also found that a further 13.9% of all consumers who complained to LCS or SRA about a solicitor had some failings in the way their complaint was being handled and although these were not serious enough to change the outcome or severely impact upon the consumer's experience they were still significant. An example of this was:

Although it has been recognised that general improvements have been made in the speed of complaints handling, this audit showed that delays in the allocation and progression of complaints still continue to have a major impact on far too many cases. An example of one of the most extreme cases was seen:

Case Study

The consumer in this case experienced over 21 months delay on a case which was officially just over 18 months old at closure, this is because the complaint was not registered on the Law Society's system for 12 months. It took an additional 2 months for any activity to take place on the case and the consumer was awarded a special payment for this delay. There were further long periods of inactivity and the caseworker took over 6 months to prepare the report required for adjudication against their target of 6-8 weeks. This case could have been concluded nearly two years earlier and no additional special payments were made. This clearly was not a reasonable outcome for the consumer.

The findings also showed that some caseworkers are not sufficiently flexible in their approach regarding deadlines provided to consumers for responding to requests for information. Some caseworkers are not giving the consumer sufficient time to provide evidence to support their complaint and are closing the case inappropriately. This is in direct contrast to the amount of time given to solicitors and the number of extensions granted to deadlines. This leads to an inconsistent approach, which does not demonstrate impartiality or fairness to the consumer.

Overall, these results show that in just over 75% of cases there was a prompt and competent investigation with a reasonable outcome that met the needs of the consumer. However, what this also means is that almost 25% of all the consumers that complained to LCS or SRA about a solicitor, had an outcome that showed failings. If those consumers had taken their complaint further to the Legal Services Ombudsman it is likely she would have been critical of their complaint handling performance.

Improvements made but greater effort still required to meet end of year targets

Coal Health Compensation Scheme Audit

See Chapter 4

Indicative Target Audit

The Commissioner formally set six quality targets for LCS and SRA for the period 1 April 2007 to 31 March 2008. These quality targets cover areas where, if performance were improved, consumers would benefit directly through a more effective handling of their complaints.

The Research and Investigations team completed an Indicative Target Audit (ITA) of LCS and SRA performance against each of the quality targets set (with the exception of the Legal Services Ombudsman target which is reported separately each month) as detailed in the Plan. The review took place in November 2007 and reported on the period between 1 April 2007 and 30 September 2007.

The results provide LCS and SRA with an indication of their current level of achievement and enabled both organisations to identify and target more effectively those areas requiring improvement. A total of 1,601 files were audited and the sample reflected a mixture of both service and conduct files.

The results showed that, at the point of audit, LCS and SRA, had met two of their targets but had failed to meet the remaining four. This result represented an improvement for the Law Society compared with the previous mid-year results; it was nevertheless, a strong indicator further improvement in performance against the targets was needed.

SRA Miners Investigation

The OLSCC Coal Health Compensation Scheme Audit undertaken in September and October 2007 identified that a number of the complaints raised against solicitors firms included matters that related to the conduct of solicitors.

The auditors found complaints where the issues covered both generic conduct matters, that had already been identified by SRA, and also potential breaches of the solicitors conduct rules specific to the complaint, however it was difficult to see from the information available to the auditors at the time, which issues were being addressed and, what stage the investigation had reached.

The Commissioner therefore asked her audit team to establish how SRA was investigating the conduct matters identified in complaints related to the Coal Health Compensation Scheme.

Discussions with the SRA on issues linked to the audit were not concluded by 31 March 2008. The outcome will be reported in the 2008/09 Annual Report.

 Further information needed to understand how complaints have been resolved and what the outcomes are.

Year End Target Audit

Year End Target Audit

The OLSCC Research and Investigations team completed a Year End Target Audit (YETA) of LCS and SRA's performance in April 2008. The YETA measured the extent of LCS and SRA's operational achievements against each of the quality targets set by the Commissioner, (apart from the Legal Services Ombudsman target), for the 12 month period ending 31 March 2008.

Information from a total of 1,898 case files, distributed proportionately across all age groups and sample period, together with information from 182 cases that were audited at ITA (these cases had been randomly selected for both ITA and YETA and the measure remained the same), informed the results which were used to provide the Commissioner with a final and definitive assessment of the Law Society's annual performance.

The YETA results show that, following a full assessment of performance at the end of the plan year, LCS and SRA have successfully achieved two but have failed to meet four of the six targets set by the Commissioner.

Of the seven quality targets set (see chart below), SRA outperformed LCS in five areas. SRA actually exceeded the target levels set in five areas, whereas LCS only exceeded target levels in three quality areas.

Quality targets	LCS	SRA	Combined	Target
Q1	93.4%	89.2%	92.3%	93%
Q2a	84.9%	90.8%	86.2%	88%
Q2b	96.5%	98.9%	97.1%	93%
Q3	90.6%	-	90.6%	85%
Q4	76.3%	98.4%	79.9%	88%
Q5	81.8%	94.1%	84.4%	85%
Q6	67%	81%	71%	73%

The findings from this audit used by the Commissioner to assess whether the Law Society acted in accordance with the 2007/08 Plan, and to determine appropriate action.



Chapter 4

Coal Health Compensation Scheme Audit and Special Report

Key points

- Poor service received by some **vulnerable miners** who complained to LCS
- Options for resolution (conciliation and adjudication) not properly explained
- Some missing out financially - 6 persistent miners received an average of £1,700 more
- Cases take too long to be referred to Solicitors Disciplinary Tribunal
- **Public interest matter**
- This can be better managed and quickly turned around by LCS

Additional background about Coal Health Compensation:

a) This is the 2nd audit conducted into Coal Health Cases. Previous recommendations sidestepped.

b) New target set in this Report to address closed conciliated cases where miners may have lost out.



4. Coal Health Compensation Scheme Audit and Special Report

Background

The Coal Health Compensation Schemes are the biggest personal injury schemes in British legal history. They were negotiated to compensate miners and their families for two mining-related health problems - Chronic Obstructive Pulmonary Disease (COPD) and Vibration White Finger (VWF), caused by working underground in British coal mines.

In January 1998 the Department of Trade and Industry²¹ (DTI), took over responsibility for the accumulated personal injury liabilities of the British Coal Corporation. DTI, in negotiation with the Claimants Solicitors' Groups²² and subject to the approval of the High Court, introduced two compensation schemes for former miners, one for COPD and one for VWF. Potential claimants could make applications for compensation via their legal representative. The Government met the cost of the claimant's legal representation, where these claims were successful.

Some solicitors made deductions of success fees from miners' compensation awards, in addition to the costs they would receive from the DTI, in order to compensate for the fact that they would not be paid in unsuccessful cases. However, this often meant that the solicitor was being paid twice for the same piece of work. The deduction of success fees was commonplace until 1999 when most, though not all, solicitors stopped the practice after the introduction of claims handling agreements.

The schemes have now been closed to new entrants. As at 7 October 2007, a total of 762,000 claims had been made, 634,000 settled and total compensation of £3.6 billion had been paid to individuals under the schemes²³. It is expected that by the time they close, the Government will have spent around £7 billion in total on the schemes.

OLSCC 2006 Audit Coal Health Compensation Scheme

Early in 2006 the Commissioner had concerns about the increasing volume of complaints from miners to LCS and SRA about solicitors and their handling of claims covered by the Coal Health Compensation Scheme.

She commissioned the Research and Investigations team to examine the LCS and SRA policy for miners' complaints and the application of that policy to ensure that LCS and SRA were handling these complaints appropriately. This investigation took place in April 2006. The Report²⁴ of that investigation, published in July 2006, was formally critical of the way in which LCS and SRA were dealing with complaints from miners and made a number of recommendations for improvement.

21. Restructured and renamed in June 2007 the Department for Business, Enterprise and Regulatory Reform (DBERR)

22. The Claimants Solicitors' Groups are steering groups each led by the same three firms of solicitors, whose role is to represent the interests of claimants.

23. Source: Department for Business Enterprise and Regulatory Reform

24. OLSCC Coal Health Compensation Scheme Audit, July 2006

Since the publication of the 2006 report, LCS has continued to receive Coal Health Compensation Scheme complaints in significant volume. By September 2007, LCS had received a total of 1,792 complaints from miners and their families, which the Commissioner considered to be the tip of the iceberg.

The Commissioner was of the view that there was a direct risk to vulnerable miners if these complaints were not handled effectively and consistently, and that some miners could miss out on appropriate levels of redress and/or solicitors' poor conduct may go unaddressed. She considered this to be a public confidence issue, particularly as LCS was raising awareness in the mining community of their undertakings²⁵.

In view of this, the Commissioner considered it necessary to conduct a further investigation into the way LCS and SRA were continuing to handle miners' complaints following her recommendations in 2006 which the LCS had not addressed.

2007 Coal Health Compensation Scheme Audit

The audit conducted by the OLSCC in September 2007 incorporated a review of all 1,792 complaints received by LCS up to that point. This enabled the Research and Investigations team to make a direct comparison between the previous and present findings and helped the Commissioner determine how LCS was currently handling complaints. A total of 509 complaints were audited in full and a further 258 new complaints resulting from the Rother Valley Parliamentary Constituency pilot conducted in July 2007 were also examined.

The audit found that miners, on average, received higher awards when their complaints were referred to an adjudicator (or the Legal Services Ombudsman) than when LCS caseworkers attempted to reach a conciliated outcome between the miner and their solicitor. On average, in the cases the auditors examined that closed in 2007, each miner was, on average, £207 better off by having his complaint formally adjudicated rather than conciliated by LCS.

Not all miners accepted the LCS caseworker's recommendation to conciliate. The auditors found evidence of six individual miners who, because they felt strongly enough about their complaint, insisted on adjudication in preference to conciliation were subsequently awarded between them a total of over £10,000 of additional compensation.

25. Rother Valley pilot July 2007

Case Study

An LCS caseworker informed a miner in writing, of the solicitor's offer of a total of £200 to conciliate. The caseworker thought the offer was reasonable and tried to encourage the miner to accept it, saying that "the adjudication procedure is quite a lengthy process and if you choose to pursue that route it may be months before you receive your compensation, if any at all, and that is why I would advise you to accept the £200 the solicitors are offering now". The miner's representative insisted on adjudication and the miner was refunded their deduction in full of £352.50 plus £250 compensation for their distress and inconvenience.

Conducted properly, however, conciliation was shown to be a useful negotiating tool that can result in a fair, reasonable and prompt outcome as this example shows:

Case Study

Following a miner's complaint, the LCS caseworker contacted the solicitor who immediately sent a cheque for the amount of the deduction, in full, directly to the miner. The caseworker however, went on to discuss with the miner, the possibility of seeking additional compensation for distress and inconvenience caused by the solicitor's poor service. The caseworker also explained the adjudication process. As a result of this discussion the miner chose not to accept the cheque. Following further discussions between the caseworker and the solicitor, the solicitor offered a refund of the deduction plus £75 compensation. The caseworker contacted the miner and explained that an adjudicator would be likely to award a higher level of compensation, "as the LCS has considered many similar complaints to this in the past". Given this information, the miner confirmed he wished to pursue the complaint further. The caseworker returned to the solicitor and successfully negotiated compensation of £150 for the miner, in addition to a full refund of the deduction.

The audit team found that LCS was not consistently making effective use of the adjudication decisions available to inform its negotiations between miners and their solicitors, and obtain the right outcome for the miner. It also found evidence that some miners may have been misled by LCS caseworkers into believing that what was being offered through conciliation was the best they could expect.

In addition, the audit found evidence that processes within LCS were not robust enough to identify and subsequently correct flaws in the way miners' complaints are handled. This meant that 18% of the new complaints received, as a result of marketing activity in the Rother Valley Constituency in July and August 2007 remained unallocated at the point of the audit in September 2007.

Insert case study here

Auditors also found evidence that LCS managers suspended investigation into all complaints from miners about a particular firm of solicitors, to await the outcome of a case being prepared by SRA against the firm for the Solicitors Disciplinary Tribunal. Some of these complaints were suspended for over 15 months and many miners were not informed of the position of their complaint throughout this period.

Coal Health Compensation Scheme Special Report

Whilst there was evidence within the audit to show that there had been some improvement in the handling of Coal Health Compensation complaints since the last audit in 2006, the 2007 findings showed that too many complaints were still not being handled properly.

The findings were a major concern and a result in part of LCS and SRA's failure to implement some of the recommendations made following the OLSCC audit in 2006. In response the Commissioner published a Special Report²⁶ in early January 2008.

At the time of publication, the Commissioner stated:

"I hope this Special Report will act as a catalyst for improvements in the handling of current and future complaints from miners by the LCS. The issues identified are not insurmountable and they are intended to act as a tool for improvement and support for the LCS. This situation can be turned around quickly.

*"What I am advocating is good management and administrative checks and balances. The LCS will not need additional funding to raise its standards and change cultures. I have therefore tasked the LCS to respond to me on how they intend to address these issues. I will monitor its actions closely."*²⁷

Issues and target

The Special Report identified twelve issues (eleven to be addressed by LCS and one by SRA) and published one target for the LCS to address before the end of March 2008.

Miners' Target

By 31 March 2008, LCS must write to each miner, advisor or relative whose complaint it has conciliated. LCS must set out in that letter (to be agreed with the Commissioner) that:

- 1. LCS will re-open their complaint in circumstances where the miner did not receive a refund in full of any deductions made by their solicitor from their original compensation, or where they suffered distress or inconvenience and did not receive an award for this when they complained to LCS.*
- 2. The miner can, in the circumstances set out above, ask the LCS to re-open their complaint, or can ask for the Legal Services Ombudsman to investigate their complaint further.*

26. Investigation into the handling of Coal Health Compensation Scheme complaints by The Legal Complaints Service and The Solicitors Regulation Authority, January 2008

27. OLSCC Press notice on Coal Health Compensation Special Report, dated 15 January 2008

On receipt of further complaints as a result of writing to miners, LCS must:

1. *Record all complaints*
2. *Re-open the complaint*
3. *Investigate fully the circumstances of the complaint*
4. *Conciliate or adjudicate the complaint as appropriate*
5. *Make an award to the miner for any failings by LCS in its original investigation.*

LCS and SRA response to Special Report, January - March 2008

Special Report Target

The Commissioner provided LCS with two options for the target set within the Special Report; either to say how they would address these issues and how the target will be achieved or alternatively submit its own proposal for the target in order to achieve the same outcome.

Discussions are ongoing between the Commissioner and LCS on this matter. As of March 31 2008, LCS had not written to any miner, advisor or relative whose complaint it conciliated. The Commissioner considers LCS to have failed to take action on this target in 2007/08.

Issues to be addressed

LCS's response to the issues in January 2008 failed to address them sufficiently. The Commissioner subsequently informed LCS that she would consider setting a further target in 2008/09 to improve the overall handling of miners' complaints.

Coal Health Compensation Scheme Target in 2008/09 Complaints Handling Plan

In February 2008, the Commissioner gave the LCS the opportunity to propose a target for the Commissioner to consider setting and she requested the target to be included in the 2008/09 Plan.

In March 2008, the Commissioner agreed to the proposed target of:

For cases received after 1 February 2008, LCS to fully investigate and inform the consumer, in at least 93% of cases, of

- Adjudication as an option to conciliation
- The seriousness category of their complaint and the likely size of award at adjudication
- The amount of distress and inconvenience likely to be due in addition to any financial loss.



Chapter 5

Legal Services Act 2007

Key points

- Legal Services Board (LSB) and Office for Legal Complaints (OLC) can deliver a fresh start for consumers and profession
- Detail of the OLC Scheme Rules – vital to get this right
- OLC – a new ombudsman scheme – this is a positive for the consumer

Additional background about the Legal Services Act:

- * Law Society will lose complaint handling.
- * Between now and LCS closure must ensure effective planning for minimal legacy work to OLC.

* Risk of regulatory gap as LSB powers over OLC and not LCS.

* OLC must not inherit problems or backlogs from LCS.

5. Legal Services Act 2007

Legal Services Act 2007

“It has been a long and sometimes difficult road, but finally the reforms can start to become a reality for the consumer and for the legal profession. This new Act brings in much heralded changes to how legal services will be delivered and regulated and how complaints will be handled. As a contributor to Sir David Clementi’s review and an enthusiast for the blueprint he set out, I am pleased to see the changes become law.”

This statement is taken from the Commissioner’s press release issued on 31 October 2007, the day following the Legal Services Act 2007 receiving its Royal Assent. The Commissioner welcomed the new legislation and now awaits the setting up of the new bodies created by the Act: the Legal Services Board (LSB) and the Office for Legal Complaints (OLC).

The Road to the Act

During development of the legislation, the Commissioner contributed her views to Government on how the Act could preserve and enhance the rights of consumers of legal services as well as those in the legal profession. As Ombudsman and Commissioner she published a Special Report in June 2007²⁸ that set out her perspective on the legal reforms as they stood at that stage.

The Commissioner was able to bring to the debate her knowledge and understanding of the legal services market, regulation, complaints handling and the consumer perspective. This was alongside targeted proposals to improve the legislation on behalf of the consumer in conjunction with organisations such as Which? and the National Consumer Council.

The Ombudsman and Commissioner’s influence contributed to a number of consumer focused developments incorporated into the eventual Act including:

- The requirement for the role of Chair of the Legal Services Board to always be held by a lay person.
- The Office for Legal Complaints will be an Ombudsman scheme.
- The increased levels of compensation that the OLC will be able to pay (set at £30,000).
- The ability for the OLC to take enforcement action for payment of compensation on behalf of the complainant.

28. *Legal Services Reform – A perspective, published by the Legal Services Ombudsman and Legal Services Complaints Commissioner on 26 June 2007*

The Commissioner believes that despite its difficult birth, the Legal Services Act 2007 has the ability to deliver a fresh start for consumers and providers of legal services. However, the Commissioner has noted that the Act leaves much of the detail of the LSB and OLC to be developed within their Scheme Rules. She therefore maintains that the Scheme Rules must ensure the legislation delivers on its potential.

During the passage of the legal reforms legislation, it became clear that enshrining in the Act “light touch” regulation by the LSB was one of the key aims of the professional bodies. While this has indeed been included in the Act, it is nevertheless vital that the LSB has sufficient resources and scope within its own Rules and policies to perform an effective regulatory role when required. The profession as well as the consumer would suffer if the LSB could not act quickly or decisively enough to prevent widespread detriment.

A new ombudsman scheme for legal complaints handling

It is good news for the consumer and the legal profession that the OLC will be a new and independent legal complaints handling organisation with the removal of complaints handling from the legal professional bodies. The OLC ombudsman scheme will need to ensure it meets the British and Irish Ombudsman Association (BIOA) criteria²⁹ and embeds its principles of good complaints handling.

The Commissioner looks forward to working with the Chairs and Boards of the LSB and OLC to ensure that all the knowledge and expertise of complaints handling gained by OLSCC is made available to the new organisations.

What happens now?

The Commissioner remains committed to making improvements to the current system of complaints handling. This is vital, as the LSB’s oversight and scrutiny role over complaints relates to the new OLC and not the current LCS. Members of the legal services profession and consumers require the current improvements to be maintained and enhanced in order for the OLC to have the best possible start. The reputation of the OLC could be damaged if at the outset, it is beset by problems with backlogs of legacy work inherited from LCS.

29. For the full BIOA criteria see www.bioa.org.uk

BIOA Criteria -
Independence,
Fairness,
Effectiveness,
Public
Accountability

Chapter 5 checklist:

- * Distribute for feedback
- * Check dates
- * Insert footnote 28
- * final word count: 688

* Confirm quote (chapter 5):

"It has been a long and sometimes difficult road, but finally the reforms can start to become a reality for the consumer and for the legal profession. This new Act brings in much heralded changes to how legal services will be delivered and regulated and how complaints will be handled. As a contributor to Sir David Clement's review and an enthusiast for the blueprint he set out, I am pleased to see the changes become law."

Phone message: 11:25am
Commissioner rang, call back a.s.a.p.



Chapter 6

Planning Ahead - Commissioner's Targets 2008/2009

Key points

- Fourth year of Complaints Handling Plan.
- New targets building on platform of improvements achieved in 2007/08.
- Firsts for 2008/09 include removal or amendments of targets and separate targets for LCS and SRA.
- LCS and SRA improving performance but not yet effective and efficient. Further improvements still needed before LCS closure.
- LCS entering difficult phase as it plans to hand over work to OLC — risks for consumer and legal profession — standards must be improved.
- Plan submitted by LCS and SRA was inadequate. Joint working made this particularly regrettable.
- LCS has responsibility to focus on current consumers but at same time plan for the future. Minimising the legacy work left by LCS for OLC deserves attention sooner rather than later.

Additional background about 2008/09 targets:

1. Key issues for 2008/09 — enhancing quality, reducing cost of complaint handling and ensuring LCS initiatives yield real and measurable benefits within timeframe of organisation.
2. Likely another 40,000 consumers could have complaints handled before LCS closes. Each of these individuals expects their case to be dealt with effectively and efficiently. And rightly so.
3. LCS needs to shift emphasis to efficiency with greater resource focus on frontline complaints handling and reduce burgeoning support function.

6. Planning Ahead - Commissioner's Targets 2008/2009

Background

In 2007/08, it was clear from their overall performance that LCS and SRA are improving, but they are not yet effective and efficient. 2008/09 is an opportunity for LCS and SRA to build upon the platform of improvements that has been established over the last three years and to focus on their core business to ensure the OLC is provided with the best possible start.

Introduction

In October 2007, the Commissioner wrote to the Law Society to formally require it to submit a complaints handling plan for the period 1 April 2008 to 31 March 2009.

The Commissioner informed the Law Society that she was looking for it to produce a measurable action plan for improving complaints handling. She noted it would be helpful for the content of the Plan to focus on areas where greatest improvement was necessary. For both LCS and SRA, she wanted to see the inclusion of their individual Improvement Agendas as well as actions for improving complaints handling and a commitment to deliver these. She requested the Plan to set out the Law Society's accountability functions and responsibility for ensuring successful delivery against the Plan by LCS and SRA³⁰.

In the development of the targets, the OLSCC worked closely with the Law Society, LCS and SRA to better understand their organisational direction, processes and systems. The Commissioner considered all the information available to her to ensure that the targets set were reasonable and achievable to bring about the necessary improvements and standards in complaints handling.

At the forefront of her thinking was the importance of LCS and SRA taking responsibility in making efficiency savings and at the same time increasing the quality and consistency of decision making.

The Commissioner informed the Law Society, SRA and LCS of her proposals for the 2008/09 strategic priorities in December 2007. The priorities have equal importance and support the improvement of services through raising standards and provide balanced and complementary objectives covering all complaints handling activity within the Law Society, LCS and SRA.

In February 2008, the Commissioner formally set the targets and informed the Law Society, LCS and SRA. The ten targets are supported by a number of KPIs and recommendations. They are consistent with recognised guidance on target setting and adhere to the principles advocated by the Better Regulation Executive³¹.

30. Letter OLSCC to Andrew Holroyd, President of Law Society, 3 October 2007

31. www.berr.gov.uk/bre/

2008/09 Strategic Priorities

Strategic Priority 1

Having a complaint handled in a timely manner – through removing delay and improving or where appropriate maintaining the speed at which complaints are handled.

Strategic Priority 2

LCS and SRA achieve a fair outcome for both the complainant and solicitor - through improved decision making (including ensuring that the proper procedures and guidance are followed during investigation) so that the outcome is consistent and accurate.

Strategic Priority 3

Achieving value for money through realising clear and measurable benefits from implementation of change/improvement initiatives.

Strategic Priority 4

Improving cost efficiency of the handling of complaints.

Factors Influencing 2008/09 Targets

The Commissioner took into consideration the period and pace of recovery by the Law Society's complaints handling arm over the four years since the Commissioner was first appointed in 2004.

Particular factors she considered included:

- April 2008 marks for the Law Society its fourth year towards achieving an improved complaints handling service.
- The findings from audits undertaken by the OLSCC including the Indicative Quality Targets Audit undertaken in November 2007.
- LCS and SRA's performance and delivery against its targets and all elements of its Plan over the period 1 April to 31 December 2007.
- Action taken by LCS and SRA to address recommendations made by the Commissioner.
- The Law Society's, LCS and SRA's capability to improve.
- Relevant data, management information and detail on measures provided by LCS and SRA.

- Consultation with the Law Society, LCS and SRA on the targets for 2008/09 and proposals from LCS and SRA.
- Consultation with OLSCC key stakeholders specifically related to target setting.
- LCS's continued failure in 2007/08 to meet some of the process based targets, particularly the quality targets linked to internal service standards.

Removed or amended certain targets

During consultation with LCS and SRA on the targets, the Commissioner listened carefully and took account of improved performance levels and in recognition of Law Society restructuring and request, removed or amended certain targets:

- Removed the 3 month timeliness target for LCS and SRA.
- Reduced the number of individual quality targets from 7 to 2.
- Removed the Ombudsman target for SRA.
- Introduced separate targets for LCS and SRA.
- At the request of SRA changed the way Redress and Conduct cases are measured and counted.
- At SRA's request a cost efficiency target was not introduced and the existing productivity measure retained.
- Removed the target for effective utilisation of budget and staffing for LCS and SRA.
- Removed the target for management information reporting.

Office for Legal Complaints

An effective and efficient service from LCS will provide the best possible start for complaints handling within the new OLC.

Individual Target

Timeliness Target 1, 2, 3 and 4

To improve and sustain the speed with which complaints are handled:

- T1 All LCS complaints from the date of receipt to take no longer than 12 months to investigate and conclude, apart from in exceptional circumstances.*
- T2 LCS to refer to SRA within 3 months of receipt all matters of misconduct identifiable at that time.*
- T3 All SRA complaints from the date of receipt to take no longer than 12 months to investigate and conclude, apart from in exceptional circumstances.*
- T4 All SRA complaints where there is a referral to Solicitors Disciplinary Tribunal (SDT), from the date of receipt to take no longer than 18 months to investigate and conclude, prepare fully, and lodge with SDT, apart from in exceptional circumstances.*

Reasons behind timeliness targets

The Commissioner was encouraged by the improvements made by LCS and SRA in the time taken to deal with complaints. Whilst most open complaints are not expected to be over 12 months old at the end of March 2008, a number (c.500) have taken much longer to conclude during the year. The Commissioner's view is that it is more than reasonable for all consumers to have their complaint concluded within 12 months. Concerns would be expressed if a solicitor took over twelve months to conclude a piece of work and the same view should be taken on the amount of time it takes LCS to conclude a complaint about the service a solicitor provided.

The targets, T1, T2 and T3 should achieve this aim. The same principles apply to those cases being lodged with the SDT. The target T4 should ensure that no complaint takes longer than 18 months. Whilst 18 months is still a long time for either the profession or consumer to wait it is still an improvement on the current time taken and the Commissioner's aim is to reduce this even further in the future. With this in mind the emphasis has been on striking the right balance between the speed and quality with which complaints are handled.

Quality Targets 1, 2 and 3

These targets were designed to increase the number of consumers who receive a fair, consistent and reasonable outcome of complaint, and demonstrate impartiality in the services provided by LCS and SRA.

Q1 In 90% of closed complaints, LCS to achieve a fair and reasonable outcome with no significant case failings.

Q2 In 90% of closed complaints, SRA to achieve a fair and reasonable outcome with no significant case failings.

Q3 78% or more of referrals to the LSO in which the LSO upholds the handling of the case by LCS.

Reasons behind the quality targets

The Commissioner has always been keen to measure the quality of complaints handling through a measure developed by LCS and SRA and she requested originally in 2004 that such a measure be developed. Whilst LCS and SRA did commit to developing its own measure of quality, at the time of setting these targets (6 February 2008) it was still in development for LCS. The fact that LCS had only incomplete baseline information available to inform the setting of its own quality measure was a concern to the Commissioner. Without this baseline information LCS cannot measure quality consistently across all of its complaints handling. She therefore recommended that the development of a quality measure be given priority by LCS.

In the absence of an LCS measure, the Commissioner introduced a quality of outcome and service measure drawn from her quality of outcome audit findings in June 2007. The audit found that there was considerable scope for LCS to reduce the number of failings found in the outcome and handling of complaints thereby improving the consumer experience.

For SRA, her Office was able to consider the quality measure that SRA itself had developed. After some considerable joint working on assessing SRA's baseline information, the Commissioner was pleased to be able to agree an improvement target for quality based on the SRA's own measure.

As an independent assessment of quality, the Commissioner will continue in 2008/09 to measure this for LCS through the LSO's satisfaction rating. This measure assesses the quality of LCS's decisions and processes, and captures the number of referrals to the LSO in which the LSO upholds the handling of the case by LCS and SRA.

Last year (2007/08) saw a change in SRA's ability to improve in this area as was evidenced in their performance with 81% of their case handling supported by the LSO. However, for the LCS it was a more disappointing picture with their performance hitting 67%.

The Commissioner believes that LCS's situation can be improved. Findings from an independent audit commissioned by LCS in 2007 into the outcome of complaints referred to the Ombudsman's Office recommends that LCS have an appropriate system in place to learn from the LSO reports. The Commissioner agrees and believes there is considerable scope for LCS to improve its performance if it invests in having the right systems in place to review fully the LSO reports and control quality.

The Commissioner therefore considered it appropriate to continue with a target in this area for LCS but a KPI for the SRA to ensure that the improvements achieved to date are built upon and sustained.

This approach significantly reduces the number of quality targets previously set by the Commissioner as the measures consider the end-to-end handling of a complaint. It also shifts the focus from only measures of process to a measure of outcome and service. This is something the Commissioner has long wanted to focus on.

Plan Target 1 and 2

P1 Priority initiatives to support the delivery of the Law Society's 2008/09 Complaints Handling Plan are delivered to time and cost in accordance with the Plan, and meet all related milestones and benefits to be realised.

P2 Within the Plan year 2008/09 to meet their delegated statutory Public Duty, LCS and SRA to comply with the Law Society's Public Duty requirements on Equality and Diversity (E&D) including addressing all recommendations made in the LCS E&D audit report May 2007 and the SRA E&D audit report October 2007.

key issue
for 2008/09

Reasons behind Implementing the Plan targets

The Commissioner believes LCS and SRA management has historically failed in not setting out fully the benefits they expect to realise from initiatives proposed and how these will be measured. She requested sufficient assurance that LCS and SRA had identified the benefits they expect to realise from their initiatives and that these were clearly measurable and, added value to complaints handling. Only then could she consider whether it was more appropriate to set a target specific to those. In the absence of measurable benefits the P1 target which was set for 2007/08 was reset for 2008/09.

The Commissioner recognised that LCS and SRA in 2007/08 had commissioned and completed audits on their compliance with equality and diversity requirements. However, work on addressing the findings still remains in the early stages. She therefore set a target in this area to ensure that both LCS and SRA within the plan year comply with the Law Society's Public Duty requirements on equality and diversity.

Cost Efficiency Targets 1 and 2

C1 LCS to achieve for the plan year 2008/09 a unit cost efficiency saving against its 2007/08 costs of £2,036 achieving a reduction in the average unit cost per complaint to £1,952.

C2 SRA to deliver during the Plan year a 5% efficiency in caseworker productivity.

Reasons behind Cost Efficiency targets

LCS and SRA have stated that current costs for handling complaints total £36.3m.

Whilst this includes some indirect costs which LCS and SRA state they have no control over, efficiency savings can still be made, particularly as this brings the cost of handling each case to just over £2,000³². This is much higher than the cost of most other comparable organisations.

The Commissioner viewed achieving efficiency as a priority for LCS and set the foundations for developing this in 2007/08 through the introduction of KPIs to measure the cost per complaint. It is appropriate that the overall costs associated with complaints handling are the baseline measure from which efficiencies should be derived. The Commissioner expects LCS to determine where within its organisation efficiencies can, and should be, made to achieve the target.

In November 2007, LCS organisational staffing figures totalled 401 staff of which 184 (45%) were in management or support services. This is a disproportionate effort to support the business in relation to the effort being utilised to deliver the core function of handling complaints.

The handling of complaints about professional misconduct is only one element of the work SRA does. As a consequence, targeting SRA's cost efficiency in the same way as for LCS would not be appropriate. Therefore the Commissioner proposed to measure cost efficiency for SRA through a KPI but also set a target based on the SRA's proposal to achieve efficiency in its caseworkers' productivity.

Coal Health Compensation target

M1 For cases received after 1 February 2008, LCS to fully investigate and inform the consumer; in at least 93% of cases, of:

- Adjudication as an option to conciliation
- The seriousness category of their complaint and the likely size of award at adjudication
- The amount of distress and inconvenience likely to be due in addition to any financial loss.

32. This amount calculated by dividing number of closures by LCS budget.

Case work productivity needs to increase as well.

Burgeoning support & greater focus needed on case work

Following her audit in August 2007 into the LCS and SRA's handling of CHC complaints the Commissioner asked LCS to make proposals to be included in its complaints handling plan to address the issues identified. It was important that in order to ensure that these complaints would be handled properly in the future, LCS addressed all the issues identified. The Commissioner's Office worked closely with LCS to develop the measure for a target that would achieve this aim.

Recommendations and KPIs

A number of recommendations and KPIs were also made by the Commissioner. (Details can be found on the OLSCC website www.olscc.gov.uk)

Inadequate Plan Declared

In early March 2008, the LCS and SRA submitted their 2008/09 Complaints Handling Plan to the Commissioner. The Commissioner considered carefully LCS and SRA's Complaints Handling Plan. LCS gave indications that the targets the Commissioner had set were reasonable but the Plan submitted failed to include them at the required level or from the required date.

In late March 2008, she declared LCS and SRA's Complaints Handling Plan for 2008/09 as inadequate for securing effective and efficient complaints handling. It was with surprise that despite this being the fourth year of Complaints Handling Plans and numerous discussions and correspondence having taking place, the Plan failed to include a number of targets at the level the Commissioner had set.

The Commissioner wrote on 27 March 2008 to notify the Law Society's President that the Plan had been declared inadequate and stated:

"Overall I am disappointed that LCS in its fourth year of improvement makes no commitment to achieve the targets at the level I have set from 1 April 2008 and only in the last quarter of the Plan year does it actually commit to achieving the suite of targets. This presents a significant risk for those expecting and dependent on seeing improvements in the service offered by LCS. This continued back-ended approach presented by LCS provides no guarantee of improvement in the first three quarters of the Plan year or indeed the targets being met in the last quarter³³."

The Plan failed to demonstrate a commitment by the Law Society to achieve many of the targets the Commissioner had set.

The areas in which the Plan was considered to be inadequate included:

- LCS made no commitment to achieve the targets at the level the Commissioner had set as from 1 April 2008. In reality this meant the targets were 'back-ended' with the LCS not seeking to improve standards and meet some quality targets until the last

33. The full text of the Commissioner's letter to the Law Society is available at www.olscc.gov.uk

three or four months of the Plan year – early 2009. The Commissioner considers delaying targets to the back-end of the year as potentially no different than achieving lower levels of performance on average across the year.

- In response to the C1 Target to cut case costs, the LCS offered an alternative cost index model which represented a reduction in actual costs of only 1.8% and with very little assurance that even this lower level of reduction in costs would be achieved.
- Initiatives in the Plan were generally weak in terms of the benefits to be realised and many were included on the basis that they were not yet costed or fully scoped. Neither the initiative to publish solicitors complaints records nor the Rother Valley extensions had been costed within the Plan or budget secured.

In June 2008, the Commissioner imposed a penalty of £275,000 on the Law Society for the failure to provide an adequate plan. The reasons behind this decision are reported in full on the OLSCC website.³⁴

³⁴. www.olscc.gov.uk



Chapter 7

Office Activity of the Legal Services Complaints Commissioner

Key points

- Small office delivering a high level of customer service and business standards.
- The Office has been identified as demonstrating best practice in business delivery.
- The OLSCC budget was managed effectively to ensure it remained within its £1.6m anticipated expenditure.
- OLSCC published a number of well-received, informative and influential publications.

Additional background about office activity:

- The Commissioner is committed to promoting diversity and opportunities for all staff

Also:

- Staff have shown their willingness to promote 'green' ways of working and to participate in fund raising for local and national charities
- Changes to the website have improved communications with all our stakeholders and consumers

7. Office Activity of the Legal Services Complaints Commissioner

Summary

The Commissioner has a small office of 18 staff who undertake a wide variety of functions in order to support her work and deliver a high standard of customer and business services. Staff have been selected for their business delivery skills and include qualified project managers, auditors, investigators, finance and HR specialists, communication and information managers, and qualified health and safety practitioners.

Implications of the Legal Services Act 2007

The Legal Services Act 2007 will create a new organisation, the LSB to act as oversight regulator for the legal profession and the new independent complaint handling body – the OLC. It is anticipated that the LSB will be operational in early 2010 and the OLC by the end of 2010.

OLSCC will therefore close during 2010.

Whilst it is helpful for the Commissioner and her staff to have some clarity over the likely closure date for the Office, the OLSCC is not in a “wind down phase” in any traditional sense. The unique circumstances faced by this Office mean that staff will be required to ensure the maintenance of standards within LCS throughout its own closure period. This will create the challenges of prioritising work (including taking into account the possible attrition of OLSCC staff) and continuing to be a lean, efficient and focused regulator for the whole of this period.

OLSCC managers are already planning for this period and have put in place mechanisms to engage with and support staff through change and uncertainty.

Overview

During 2007/08, OLSCC continued to develop its people and ensure skills and knowledge were shared throughout the organisation with a programme of learning and development. As a result, the office has been identified by the Ministry of Justice (MoJ) as demonstrating best practice in a range of business delivery areas. In particular, the management of budget and finances, and health and safety arrangements and initiatives, were recognised for meeting high standards of excellence.

The functions of the Commissioner’s office are explained in more detail below.

OLSCC Business Plan 2007/08

In May 2007, OLSCC published its 2007/08 Business Plan. The focus of the plan and the business year was to ensure that the Law Society's policies and customer standards when dealing with complaints were adhered to and their quality of service improved.

During this business year, OLSCC re-organised internally to enable it to deliver its objectives more effectively. The re-organisation of the office also provided a better structure to align internal and strategic policy work.

The office organisation is now split into three teams: Research and Investigations, Policy and Performance and, Strategic Policy and Corporate Services. The Business Plan identified the objectives, critical success factors and key performance indicators for each team and provided strategic targets for their delivery.

The OLSCC met its 2007/08 objectives as laid out in the Business Plan.

Proportionate and Evidence based regulation

The principles of "*Better Regulation*" continue to underpin the Office's work. There are examples throughout the year of OLSCC taking opportunities to minimise the effects of regulation on LCS and SRA. These include the streamlining of management information requirements and regularly substituting face to face meetings (and associated travel) with video conferences.

The Commissioner insists on high standards of evidence gathering to support her role as regulator of LCS and SRA's complaint handling. An important part of this, is the information derived from the auditing of LCS and SRA complaint handling files. During 2007/08, a total of 6,073 files were examined during four specific audits. A small team of just four auditors, conducted these audits in concentrated discrete timeframes achieving impressive productivity rates for file audits. Audits are planned and carefully managed so as to result in minimal disruption to LCS and SRA staff or case progression. For example, the OLSCC will guarantee to audit live cases quickly, resulting in a 24 hour turnaround time.

The audits not only provide a sound and accurate basis from which the Commissioner can measure improvement and set targets, but are also a useful source of learning for LCS and SRA. All information from OLSCC audits (including case references) is routinely provided to LCS and SRA in order to support their continuous improvement.

*Adding value
as a regulator*

Throughout the year, the OLSCC Research and Investigations team provided advice, support and guidance to the LCS and SRA internal quality teams. In particular, the OLSCC team worked closely with SRA in support of development of its own quality measure.

In this way, the small and dedicated team at OLSCC works to add value as a regulator to LCS and SRA and actively seeks to reduce the regulatory burden.

Learning and Development

Training needs identified during staff appraisals and the production of the business plan generated a programme of learning and development. Each member of OLSCC has a set of key work objectives and a personal learning and development plan agreed with their Line Manager.

The average number of training days attended by staff amounted to three days per person. Where possible, and with a view to achieving value for money, OLSCC organised in-house learning or attended events provided by MoJ. Where more specialist development requirements were identified, external providers were used. These included courses on project management, analysis and use of evidence, and strategic leadership.

Recruitment and Retention

Staff movements, maternity leave, and organisational changes, resulted in recruitment exercises. Two new posts were also created within the office for a Strategic Communication and Policy Manager and a Performance Officer. An external campaign was successfully conducted to fill these roles.

The Commissioner was keen to find innovative ways to bring young people with potential into the organisation. As a result, OLSCC offered a place to a person under the age of 18 through the Modern Apprenticeship Scheme. This apprenticeship was a great success, and as a result, when a vacancy arose, a further apprenticeship was offered under the scheme.

Diversity

The OLSCC actively promotes and respects diversity, within the organisation, with its stakeholders and consumers, and in the wider business community. The office has a diverse workforce and promotes an equality of opportunity for all its people.

All staff have a commitment to diversity embedded in their objectives as part of their personal development plan, and individual staff continue to participate in the MoJ's staff network groups established as part of a government-wide commitment to diversity.

Environmental, Social and Community Matters

The OLSCC is committed to reducing our impact on the environment. It ensures that all paper is recycled, and has joined a building-wide initiative to recycle glass, plastic and cans, which are collected at recycle points across the office. OLSCC also uses recycled paper products, stationery, and environmentally friendly cleaning products, which have environmental and cost advantages.

OLSCC staff are able to participate in the Give as You Earn payroll-giving scheme, meaning that any employee can donate tax-free to any charitable organisation in the UK directly from their payroll. Staff have also raised funds during the year for several charities such as Oxfam, Breast Cancer Care, and Scope, through a number of events including Jeans for Genes day and Pink Day. Strong links have also been forged with a local hospice to provide it with voluntary help and support.

Health and Safety

The Commissioner is committed to ensuring that her staff and all visitors to her office work in a safe and healthy environment, and that the OLSCC meets all health and safety regulations and requirements. Regular risk assessments, workplace inspections and audits are also conducted to eliminate or mitigate risk and maintain the highest standards of safety for everyone.

MoJ conducted a health and safety audit of OLSCC at the beginning of the financial year. The audit found that 'OLSCC management took a very active interest in health and safety matters' and that the health and safety officers 'managed to an excellent and exemplary standard'.

Best practice
shared with
MoJ

Communications

We have adopted a range of communication channels to help us communicate effectively with and make us accessible to our stakeholders, the general public, government departments, MPs and others interested in our work.

These include:

1. External Stakeholders

Over the year, the Commissioner was invited to brief external stakeholders on a one-to-one basis, including Ministers, MPs and Peers, and at conferences on issues relating to the OLSCC and the Legal Services Reforms. The Commissioner and other representatives from OLSCC also participated in meetings with other regulators, non-departmental government bodies including the Legal Services Commission. OLSCC also participated in a number of research activities.

2. Consumer and Advisory Board

The Consumer and Advisory Board fulfil a vital role in governance of the OLSCC. They are on hand to support and advise the Commissioner with her key decisions and provide the Commissioner with a useful perspective of consumer expectations. An internal governance review took place within the Plan year to merge the two Boards. This proposal was approved. A full list and profile of Board members is provided on the OLSCC website.

3. Consumer contact

Although the OLSCC does not investigate individual complaints, the Commissioner welcomes consumer feedback and hearing their experiences of service from solicitors or the Law Society. Information gathered in this way is used as a means to improve the Commissioner's knowledge and understanding and help identify areas for improvement in complaints handling. Communication takes place through:

- a dedicated consumer telephone line
- written correspondence
- email; and
- a consumer questionnaire which is available on the website.

4. Publications

OLSCC published a number of documents this year, both in hard copy and on the website, including:

- Special Report: Investigation into the handling of Coal Health Compensation Scheme complaints by the Legal Complaints Service and the Solicitors Regulation Authority;
- Cycle of Change: Legal Services Complaints Commissioner's Annual Report and Accounts 2006/07; and
- Legal Services Reform – A Perspective. A Special Report from: The Legal Services Ombudsman for England and Wales and The Legal Services Complaints Commissioner June 2007.

5. Website

In addition to publishing reports, the website also communicates information on the OLSCC role and responsibilities and progress in gaining further improvements for the people who use LCS and SRA services. The website was reviewed in March 2008 to improve navigation and up date content to reflect the Legal Services Act and other internal and external changes.

Budget and Funding of the OLSCC

Under the Access to Justice Act 1999 the Lord Chancellor has required the Law Society, as a professional body, to make appropriate payments towards meeting the expenditure incurred by the Commissioner in the discharge of her statutory functions. Any expenditure not met by these payments is met by funds voted by Parliament.

The Commissioner continues to review her Office requirements on a regular basis in order for it to continue its important work in regulating the Law Society's complaints handling.

The OLSCC managed its budget accurately and effectively, in line with MoJ standards, to ensure that it remained within its £1.6m anticipated expenditure for the period 1 April 2007 to 31 March 2008. The constant review of its budget requirements ensured OLSCC provided a value for money service. To do this the Commissioner has in place a comprehensive budgeting system encompassing compliance controls, with a review and reporting mechanism to provide assurances as budget holder and to MoJ.

The OLSCC has developed a number of best practices to ensure effective management of its budget and has shared this best practice more widely across MoJ. This has included an invoice logging system to control the management and payment of suppliers and contractors, and the piloting of the I-Procurement system on behalf of MoJ.

The Commissioner is committed to the prompt payment of suppliers of services to the OLSCC. Payments are normally made as specified in any contract. If there is no contractual provision or other understanding, they are paid within 30 days of the receipt of goods or services, or on presentation of a valid invoice or other similar demand, whichever is the later. Statistics on payments to suppliers can be found in the MoJ Resource Accounts.

The OLSCC adheres to MoJ's "Risk Management" policy and the Commissioner has processes within the organisation to identify, assess, control and report risk. There is a review and reporting mechanism in place to help provide assurances to all appropriate parties and the Commissioner has produced a set of annual accounts for 1 April 2007 to 31 March 2008.

The Commissioner's accounts have been audited by the Comptroller and Auditor General, who has been appointed by the Secretary of State for Constitutional Affairs and the Lord Chancellor in accordance with the Access to Justice Act of 1999. The cost of the audit relates solely to the audit of the Commissioner's accounts.

Budget managed to within 2% of final forecast

As far as the Accounting Officer and the Commissioner are aware, there is no relevant audit information of which OLSCC's auditors are unaware. The Accounting Officer and Commissioner have taken all the steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that the auditors are aware of that information.

OLSCC Spending

Total expenditure by the OLSCC amounted to £1.66m in 2007/08, compared to £1.63m in 2006/07. This small increase is due to the rise in staffing and direct costs in line with inflation and the Departmental pay agreements.

Of this total expenditure, £1,096,922 relating to staff costs and other direct costs was recovered from The Law Society by the Lord Chancellor as permitted under Schedule 8 of the Access to Justice Act 1999, leaving net expenditure of £564,077 that was funded by MoJ.

At the year-end 31 March 2008, this income had not yet been received in cash from the Law Society and therefore it is reflected in the balance sheet as accrued income. Since these amounts are paid directly to MoJ, there is a corresponding debt to MoJ.

The OLSCC had net liabilities of £75,916 in the balance sheet at the year-end.

Going Concern

The Legal Services Act (2007) will fundamentally change the way that legal services will be regulated in England and Wales. The OLC and LSB are likely to commence operating in 2010 and this will co-incide with the closedown of OLSCC within that year. A strategy for the Office in the transitional period will be agreed with MoJ. The accounts are prepared on a going concern basis as MoJ settles all of OLSCC's financial transactions with funds voted by Parliament and future funding has been agreed with MoJ.

Pension Liabilities

Pension benefits for the Commissioner and her staff in the OLSCC are provided through the Civil Service pension arrangements. Details regarding the treatment of pension liabilities are set out in note 1 of the OLSCC financial statement.



Financial information

Chapter 1 Remuneration Report

Chapter 2 Financial Statements

Auditable Sections

In accordance with the requirements of Schedule 7A of the Companies Act 1985 (as amended), only certain sections of the Remuneration Report have been subject to full external audit. These comprise the paragraphs on salary and pension entitlements.

Remuneration Policy

The remuneration of senior civil servants is set by the Prime Minister after independent advice from the Review Body on Senior Salaries.

The Legal Services Complaints Commissioner (the Commissioner) receives salary increases annually in line with the average award to Senior Civil Service (SCS) employees. The Commissioner, therefore, is not subject to performance pay arrangements, although she discusses her annual appraisal with the Permanent Secretary of the Ministry of Justice.

In reaching its recommendations, the Review Body has regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;
- regional/local variations in labour markets and their effects on the recruitment and retention of staff;
- Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services;
- the funds available to departments as set out in the Government's departmental expenditure limits;
- the Government's inflation target.

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

Further information about the work of the Review Body can be found at www.ome.uk.com.

Service Contracts

Civil Service appointments are made in accordance with the Civil Service Commissioners' Recruitment Code, which requires appointment to be on merit on the basis of fair and open competition but also includes the circumstances when appointments may otherwise be made. Further information about the work of the Civil Service Commissioners can be found at www.civilservicecommissioners.gov.uk.

Chapter 1 Remuneration Report

The Commissioner is a statutory appointee. She holds the position, concurrently with that of the Legal Services Ombudsman, for a period of 3 years from appointment, which currently expires on 2 March 2009. Both posts will be renewable on this date for further 3-year terms at the mutual discretion of the office holder and the Secretary of State.

The Commissioner's contract does give the Secretary of State discretion to make a compensatory payment in the event of early termination should he consider there are special circumstances which make it right that the Office Holder should receive compensation.

Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of the Commissioner.

Remuneration

	2007-08	2006-07
	£'000	£'000
Members	Salary	Salary
Zahida Manzoor	45-50	40-45

Salary

'Salary' includes gross salary; performance pay or bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances; ex-gratia payments; and any other allowance to the extent that it is subject to UK taxation.

Pension Benefits

Name	Accrued pension at age 60 as at 31/03/08	Real increase in pension at age 60	CETV at 31/03/08	CETV at 31/03/07	Real increase in CETV
	£'000	£'000	£'000	£'000	£'000
Zahida Manzoor	5-10	0-2.5	155	108	27

The figures shown on the pension benefit relates to Zahida Manzoor's role as both the Ombudsman and Commissioner, as it has not been possible to separate her pension entitlements. Zahida Manzoor is a member of the PCS Premium/C1 Plus part of the Principal Civil Service Pension Scheme (PCSPS).

Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements.

From 30 July 2007, civil servants may be in one of four defined benefit schemes; either a “final salary” scheme (classic, premium, and classic plus); or a “whole career” scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus and nuvos are increased annually in line with changes in the Retail Prices Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good quality “money purchase” stakeholder pension with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years’ pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member’s earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but, where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer’s basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

Further details about the Civil Service pension arrangements can be found at the website www.civilservice-pensions.gov.uk

Cash Equivalent Transfer Values

Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

Real Increase in CETV

This reflects the increase in CETV effectively funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Zahida Manzoor CBE

Legal Services Complaints Commissioner

Date: 18th June 2008

Suma Chakrabarti KCB

Accounting Officer

Date: 19th June 2008

Statement of Accounting Officers' and Commissioner's responsibilities

HM Treasury has appointed the Permanent Secretary of the Ministry of Justice (the Ministry) as Principal Accounting Officer. The Principal Accounting Officer's responsibilities are defined in chapter three of Managing Public Money (MPM), a publication of HM Treasury.

The Accounting Officer has responsibility for the regularity and propriety of the public finances for which he is answerable, for keeping proper records and for safeguarding the Ministry's assets. He is also responsible for preparing the accounts of the Ministry of Justice (MoJ) and for transmitting them to the Comptroller and Auditor General.

The Secretary of State for Justice and Lord Chancellor has appointed the Legal Services Complaints Commissioner for England and Wales (Commissioner) to oversee the daily operations of the Office of the Legal Services Complaints Commissioner (OLSCC). Details of the division of responsibilities are set out in a Memorandum of Understanding between the MoJ (formerly the DCA) and the OLSCC. This appointment does not detract from the Permanent Secretary's overall responsibility as Accounting Officer for the accounts.

Under the Access to Justice Act 1999, the Secretary of State and Lord Chancellor has directed the Commissioner to produce accounts for the financial year ending 31 March 2008.

These accounts are prepared on an accruals basis and give a true and fair view of the state of affairs of the OLSCC and the income and expenditure outturn and cashflow for the financial year.

In preparing the accounts, the Commissioner is required to comply with the requirements of the Government Financial Reporting Manual (FReM) and in particular to:

- (a) observe the Accounts Direction issued by the Ministry of Justice (formerly DCA), including the relevant accounting and disclosure requirements and apply suitable accounting policies on a consistent basis;
- (b) make judgements and estimates on a reasonable basis;
- (c) state whether applicable accounting standards, as set out in the Government Financial Reporting Manual (FReM) have been followed and disclose and explain any material departures in the accounts; and
- (d) prepare the accounts on a going-concern basis, unless it is inappropriate to presume that OLSCC will continue in operation.

Statement of Internal Control

Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of OLSCC policies, aims and objectives, whilst safeguarding the public funds and Ministry of Justice (MoJ) assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Managing Public Money.

As Accounting Officer, I agree with Ministers, the MoJ plans and allocation of resources to the MoJ's business areas. OLSCC, as an Associate Office, operates as a business entity of the MoJ. I delegate financial authority, together with corresponding internal control and risk management responsibilities, to the Commissioner via the Director General, Access to Justice Group (formerly Legal and Judicial Services Group), in line with the requirements detailed in the Memorandum of Understanding between the MoJ and OLSCC.

A system of internal control operates in MoJ headquarters. This includes the monitoring of OLSCC's performance and compliance with the Memorandum of Understanding through the Director General, Access to Justice Group. To the extent that the document delegates control to the Commissioner, I place reliance upon the Statements on Internal Control submitted by the Commissioner to the Director General, Access to Justice Group.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of MoJ policies, aims and objectives, to evaluate the likelihood of those risks being realised, and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in the OLSCC for the year ended 31 March 2008, and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

Capacity to handle risk

As Accounting Officer I acknowledge my overall responsibility for the effective management of risk throughout the MoJ.

The MOJ Risk Management Policy and Framework document, approved by the Corporate Management Board (CMB) (formerly Departmental Management Board) was published in June 2002 and is available to all staff on the MoJ Intranet. This sets out the MOJ attitude to risk in the achievement of its policies and objectives, and provides guidance on the process of identifying, assessing and managing risk.

Risk management is incorporated into OLSCC's day-to-day activities and forward planning. Significant risks to and arising from the work of OLSCC are reported to the Director General, Access to Justice Group on a quarterly basis. Where necessary, such risks and the actions to mitigate are escalated and incorporated into the MoJ's Corporate Risk Register for consideration by the Corporate Management Board.

The risk and control framework

The key elements of OLSCC risk management strategy to be fully implemented for identifying, evaluating and controlling risk are as follows:

- OLSCC system of analysis and reporting (based on MoJ policy and framework) that identifies risk to objectives, risk impact and likelihood, current and planned mitigating action, risk status, risk judgement or appetite and individual risk owners, which forms the basis of the Risk Register and is escalated quarterly to the Director General, Access to Justice Group;
- OLSCC Senior Management Team meetings have risk management on the standard agenda, and there are planning workshops for all staff to assist with the identification and evaluation of risks to objectives;
- OLSCC Risk Register covers all OLSCC activity and is reviewed by the OLSCC Senior Management Team. Access to Justice Group then review the register, escalating any significant risks for inclusion in the MOJ Corporate Risk Register;
- Quarterly certification by the Commissioner to the Director General, Access to Justice Group of risk management in OLSCC;
- Head of Corporate Services is the risk co-ordinator and is on the OLSCC Senior Management Team;
- Risk identification, evaluation and management as an integral part of the OLSCC planning process for delivery of its objectives.

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Other key elements in the OLSCC control systems are regular management information, financial regulations, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular it includes:

- business planning, which is reviewed by the Director General, Access to Justice Group;
- comprehensive budgeting systems with an annual budget, which are reviewed and agreed by the CMB;
- regular reviews by the CMB of periodic and annual financial reports, which are prepared to indicate financial performance against the forecasts;
- target setting to measure financial and other performance;
- a formal system of financial compliance controls, consisting of core control checks with an audit trail of evidence, and a review and reporting mechanism to provide assurances from the Director of Operations (as Budget Holder), on a quarterly basis, that internal financial controls are in place and operating effectively;
- a published MoJ fraud policy, with effective capability to investigate incidents of fraud, including a cadre of trained staff;
- an MoJ whistle-blowing policy for confidential reporting of staff concerns;
- a Business Continuity Plan for OLSCC, which continues to be refined to ensure that key activities can continue effectively following a disruption;
- compliance with ISO17799, the International Standard for Information Security Management, to assist with achievement of the standard across the MoJ.

In addition to the developments in risk management, the MoJ continues to take steps to improve its corporate governance arrangements. OLSCC has encompassed co-ordinated team briefing, and the performance management and recognition and reward systems.

During 2007–08 OLSCC has also engaged in influencing the performance of the Law Society to improve its handling of consumer complaints through:

- actively monitoring and evaluating the Law Society's progress against its Plan and the targets set;

- setting further clear and reasonable performance targets for the Law Society for the 2008–09 year and assessing the Law Society Plan for that year to understand the Law Society’s potential improvement;
- a continuing programme of audits by the OLSCC Research and Investigations team. These have assisted in setting targets and recommendations for the Law Society for 2008-09;
- production of an Annual Report detailing the Commissioner’s determination of the Law Society’s performance; and
- the Legal Services Advisory and Consumer Board, which provides support for the Commissioner.

Review of effectiveness

As Accounting Officer, I also have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of the internal auditors and the executive managers within the MoJ who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. My review is also informed by the work of the Commissioner and her Senior Management Team.

The key elements of the system of internal control are set out in the previous section and contribute to my review of the system’s effectiveness. In addition, the following bodies also inform my review:

- Ministry of Justice Board (MoJB) and the Corporate Management Board (CMB) – These Boards approved the MoJ Framework and Policy Document and have been involved in the development and monitoring of the Corporate Risk Register.
- Corporate Audit Committee – The Committee is a continuing source of advice and assurance on the effectiveness of the risk management process.

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The Committee meets a minimum of four times each year and has a non-executive Chairman who reports directly to the MoJB and Accounting Officer twice a year. It receives regular reports on the development of risk management and internal control and considers internal and external audits on the system of internal control and any material weaknesses.

- Risk Co-ordinators – A network of Risk Co-ordinators has been established within MoJ headquarters, Agencies, Non-Departmental Public Bodies (NDPBs) and Associate Offices, to co-ordinate the reporting and management of risk and control issues within business areas and for MoJ in reporting to the CMB and Audit Committee.
- Internal Audit – MoJ has an Internal Audit Division that operates to the Government Internal Audit Standards. It submits regular reports, which include the Head of Internal Audit's independent opinion on the adequacy and effectiveness of MoJ internal controls together with recommendations for improvement.

I can confirm that no significant control issues as defined by HM Treasury guidance have been highlighted.

This statement applies to OLSCC. The Statement on Internal Control for MoJ as a whole will be available from the Stationery Office when MoJ's 2007–08 Accounts are published later this year.

Zahida Manzoor CBE
Legal Services Complaints Commissioner
Date: 18th June 2008

Suma Chakrabarti KCB
Accounting Officer
Date: 19th June 2008

***THE CERTIFICATE AND REPORT OF THE COMPTROLLER
AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT***

I certify that I have audited the financial statements of the Office of the Legal Services Complaints Commissioner (OLSCC) for the year ended 31 March 2008 under the Access to Justice Act 1999. These comprise the Operating Cost Statement, the Balance Sheet, the Cashflow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer, Commissioner and Auditor

The Accounting Officer and Commissioner are responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the schedule 8 of the Access to Justice Act 1999 and directions made there under by the Secretary of State and Lord Chancellor with the approval of HM Treasury, and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's and Commissioner's Responsibilities.

My responsibility is to audit the financial statements and the part of the remuneration report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Access to Justice Act 1999 and directions made there under by the Secretary of State and Lord Chancellor with the approval of HM Treasury. I report to you whether, in my opinion, the information, which comprises Chapter 7, included in the Annual Report is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the OLSCC has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal control reflects the OLSCC's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of OLSCC's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinion

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgements made by the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the OLSCC's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

Audit Opinion

In my opinion:

- the financial statements give a true and fair view, in accordance with the Access to Justice Act 1999 and directions made there under by the Secretary of State and Lord Chancellor with the approval of HM Treasury, of the state of the OLSCC's affairs as at 31 March 2008 and of its income, expenditure and cash flows for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Access to Justice Act 1999 and directions made there under; and
- information included within the Annual Report, which comprises Chapter 7, is consistent with the financial statements.

Audit Opinion on Regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities, which govern them.

Report

I have no observations to make on these financial statements.

Paul Keane

Director Justice Financial Audit

For The Comptroller and Auditor General

National Audit Office

151 Buckingham Palace Road

Victoria

London

SW1W 9SS

Date: 1st July 2008

Chapter 2 Financial Statements

Operating cost statement for the year end 31 March 2008

	Notes	2007-08 £	2006-07 £
Income	2	(1,096,922)	(1,089,643)
Staff costs	3	875,884	866,638
Other direct costs	4	273,677	254,890
Accommodation costs	5	178,492	183,934
Ministry's overhead charge		302,897	301,219
Other non cash costs	6	30,049	23,288
Total costs		1,660,999	1,629,969
Net operating cost		564,077	540,326

All income and expenditure is derived from continuing operational activities.

There are no other gains or losses for the year.

The notes on pages 92 to 99 form part of these accounts.

Balance Sheet as at 31 March 2008

	Notes	2007-08 £	2006-07 £
Fixed Assets			
Tangible fixed assets	7	77,571	93,266
Current Assets			
Debtors	8	1,093,163	1,149,172
Current Liabilities			
Creditors	9	(1,094,818)	(1,165,891)
Net Current Liabilities		(1,655)	(16,719)
Total Assets Less Current Liabilities		75,916	76,547
Taxpayers' Equity			
General Fund	11	75,916	76,547
		<u>75,916</u>	<u>76,547</u>

The notes on pages 92 to 99 form part of these accounts

Zahida Manzoor CBE
 Legal Services Complaints Commissioner
 Date: 18th June 2008

Suma Chakrabarti KCB
 Accounting Officer
 Date: 19th June 2008

Cash flow statement year ended 31 March 2008

	Notes	2007-08	2006-07
		£	£
Net cash outflow from operating activities	10	(246,195)	(283,445)
Capital expenditure		(686)	(30,170)
Finance from Ministry of Justice		246,881	313,615
Increase in cash		<u>0</u>	<u>0</u>

The notes on pages 92 to 99 form part of these accounts

Notes to the accounts

1. ACCOUNTING POLICIES

Basis of accounting

These accounts for the Office of the Legal Services Complaints Commissioner (OLSCC) have been prepared in accordance with the Financial Reporting Manual (FRM) issued by HM Treasury with the exception that historical cost accounting has been used in place of modified historic cost accounting because of the immaterial difference between the two for OLSCC. The accounting policies used to prepare these statements are consistent with those used to prepare accounts for the Ministry of Justice (MoJ). The MoJ's accounts give greater detail on accounting policies.

Going concern

The Legal Services Act (2007) received Royal Assent on 30 October 2007 and will reform the way that legal services are regulated in England and Wales, including the formation of the Office for Legal Complaints, and consequent closure of OLSCC. The Parliamentary Under Secretary of State, Ministry of Justice, announced on 18th June 2008 that OLSCC will close in March 2010. The accounts are prepared on a going concern basis as MoJ settles all of OLSCC's financial transactions with funds voted by Parliament and future funding has been agreed with MoJ.

Income

OLSCC does not recover its costs through charging fees though it recovers certain expenditure from the Law Society under the provision of the Access to Justice Act 1999. The expenditure that is recoverable relates to staff costs (with the exception of the Commissioner's salary) and other direct costs.

MoJ's overhead charge

This charge relates to support services provided to OLSCC by MoJ. The Ministry's costs are apportioned on a systematic basis to all the MoJ's Associated Offices including OLSCC. These costs do not include OLSCC's share of the costs under contracts that have been awarded by the MoJ under the Government's Private Finance Initiative (PFI) for the provision of accounting and IT services. The PFI contract is managed centrally by MoJ, and included in the MoJ's resource accounts.

Other non-cash costs

Non-cash costs are included to show the full cost of operating OLSCC. The audit fee is an amount agreed with the National Audit Office. The cost of capital charge reflects the cost of capital utilised by OLSCC and is calculated at the Government's standard rate of 3.5% of average net assets less liabilities over the year.

Operating Leases

MoJ holds the operating lease on the property used by OLSCC and also has legal ownership of the non-leased tangible fixed assets used by that Office.

Fixed assets

Tangible assets primarily comprise IT equipment, developed software and furniture. IT equipment and software development costing more than £1,000 is capitalised and then depreciated over 3-5 years. All furniture is pooled, then depreciated over 20 years. All depreciation is calculated on a straight line basis.

VAT

The amounts on the expenditure statement are net of recoverable VAT but include irrecoverable VAT. Recoverable VAT is received centrally by the MoJ from HM Revenue and Customs. Any amount receivable is not shown as a debtor on the OLSCC balance sheet.

Pensions

Past and present employees of OLSCC are covered by the provisions of the Principal Civil Service Pension Schemes (PCSPS). The defined benefit schemes are unfunded and are non-contributory except in respect of dependant's benefits. The MoJ recognises the expected cost of these elements on a systematic and rational basis over the period during which it benefits from employee's services by payment to the PCSPS of amounts, calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, the MoJ recognises the contributions payable for the year.

2. INCOME

	2007-08	2006-07
	£	£
Recharge of costs to the Law Society	1,096,922	1,089,643
Total	<u>1,096,922</u>	<u>1,089,643</u>

The full amount shown as income in these accounts relates to the direct funding of the Commissioner's expenditure by the Law Society.

3. STAFF COSTS

			2007-08	2006-07
	Employees	Self -employed	Total	Total
	£	£	£	£
Wages, salaries and fees	678,839	8,842	687,681	674,799
Social security costs	52,227	1,221	53,448	58,526
Other pension costs	134,755	-	134,755	133,313
	<u>865,821</u>	<u>10,063</u>	<u>875,884</u>	<u>866,638</u>

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but OLSCC is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2007. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk)

For 2007-08 contributions of £134,755 (2006-07 £133,313) were paid to the PCSPS on behalf of employees at rates determined by the Government Actuary, reviewed every four years following a full scheme valuation. These rates were in the range 17.1% to 25.5% (as 2006-07) of pensionable pay, based on salary bands. From 2007-08, the salary bands will be revised but the rates will remain the same.

All OLSCC's staff are employees of MoJ and further details of their pension scheme are given in the MoJ resource accounts.

The average number of whole time equivalent persons employed during the year was 18.34 employees and 0.13 self-employed (2006-07 18.85 in total).

Staff costs include the Commissioner's salary and associated pension contributions made on her behalf. Zahida Manzoor CBE held the post during 2007-08. Please refer to the Remuneration Report for further details.

4. OTHER DIRECT COSTS

	2007-08	2006-07
	£	£
Rentals under operating leases		
Hire of plant and machinery	17,780	16,721
Travel and subsistence	89,080	99,476
External consultancy	31,133	34,941
Office supplies	13,580	12,488
Printing and reprographics	62,215	36,037
Distribution, postage & Telecommunication	10,840	9,292
Other	49,049	45,935
Total	<u>273,677</u>	<u>254,890</u>

Chapter 2 Financial Statements

5. ACCOMMODATION COSTS

	2007-08	2006-07
	£	£
Rent and service charge	132,011	138,757
Rates	27,499	37,956
Other property costs	18,982	7,221
Total	178,492	183,934

6. OTHER NON-CASH COSTS

	2007-08	2006-07
	£	£
Depreciation	16,381	11,617
Cost of capital	2,668	1,171
External audit fees	11,000	10,500
Total	30,049	23,288

The auditors received no remuneration for non-audit work.

7. TANGIBLE FIXED ASSETS

	Furniture	Computer and Other Equipment	Total
	£	£	£
Cost or valuation			
At 1 April 2007	66,881	44,901	111,782
Additions	686	-	686
At 31 March 2008	<u>67,567</u>	<u>44,901</u>	<u>112,468</u>
Depreciation			
At 1 April 2007	7,426	11,090	18,516
Charge for the year	3,378	13,003	16,381
At 31 March 2008	<u>10,804</u>	<u>24,093</u>	<u>34,897</u>
Net book value			
At 31 March 2008	<u>56,763</u>	<u>20,808</u>	<u>77,571</u>
At 31 March 2007	<u>59,455</u>	<u>33,811</u>	<u>93,266</u>

Chapter 2 Financial Statements

8. DEBTORS

8(a) Analysis by Type

	2007-08	2006-07
	£	£
Accrued Income	1,057,261	1,109,375
Accommodation prepayments	35,902	35,474
Other prepayments	-	4,323
	<u>1,093,163</u>	<u>1,149,172</u>

8(b) Intra-Government Balances

	2007-08	2006-07
	£	£
Balances with other central government bodies	-	-
Balances with bodies outside central government	1,093,163	1,149,172
	<u>1,093,163</u>	<u>1,149,172</u>

9. CREDITORS

9 (a) Analysis by Type

	2007-08	2006-07
	£	£
Law Society income payable to MoJ	1,057,261	1,109,375
Accommodation accruals	29,330	45,251
Other Accruals	8,227	11,265
	<u>1,094,818</u>	<u>1,165,891</u>

9 (b) Intra-Government Balances

	2007-08	2006-07
	£	£
Balances with other central government bodies	1,057,261	1,109,375
Balances with bodies outside central government	37,557	56,516
	<u>1,094,818</u>	<u>1,165,891</u>

Chapter 2 Financial Statements

10. RECONCILIATION OF OPERATING COST TO OPERATING CASH FLOWS

	Note	2007-08	2006-07
		£	£
Net operating cost		(564,077)	(540,326)
Ministry's overhead charge		302,897	301,219
Other non cash costs	6	30,049	23,288
Decrease/(increase) in debtors		56,009	(202,024)
(Decrease)/increase in creditors		(71,073)	134,398
Net cash outflow from operating activities		<u>(246,195)</u>	<u>(283,445)</u>

11. GENERAL FUND

	2007-08	2006-07
	£	£
Net operating cost	(564,077)	(540,326)
Financing from MoJ	246,881	313,615
MoJ overhead charge	302,897	301,219
Cost of capital	2,668	1,171
Auditors' remuneration	11,000	10,500
Net (decrease)/increase in General Fund	<u>(631)</u>	<u>86,179</u>
General Fund at start of year	76,547	(9,632)
General Fund at end of year	<u>75,916</u>	<u>76,547</u>

12. COMMITMENTS UNDER LEASES

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, analysed according to the period in which the lease expires.

	2007-08		2006-07	
	Land & Buildings	Other	Land & Buildings	Other
	£	£	£	£
Within one year	-	-	-	15,233
Two to five years	-	6,766	-	721
After five years	112,893	1,119	112,893	-
	<u>112,893</u>	<u>7,885</u>	<u>112,893</u>	<u>15,954</u>

The commitments for land and buildings in this note are for rental payments. In prior years these figures have also included service charges. The 2006-07 figure shown above has been restated and is only for rent.

13. CONTINGENT LIABILITIES

There are no contingent liabilities.

14. RELATED PARTIES

MoJ is a related party with which OLSCC had various material transactions during the year. OLSCC staff have not entered into any material transactions with OLSCC or MoJ.

Zahida Manzoor CBE, the Legal Service Complaints Commissioner, also holds the role of the Legal Services Ombudsman. There have not been any material transactions between the two Offices.

15. CAPITAL COMMITMENTS

There are no capital commitments.

16. POST BALANCE SHEET EVENTS

In accordance with the requirements for FRS21, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date the accounts are laid before Parliament. These accounts will be laid before Parliament on 9 July 2008.

In June 2008, the Commissioner imposed a penalty of £275,000 on the Law Society for the failure to provide an adequate plan for 2008/09. The Commissioner and her office derive no benefit from this receipt, since it is surrendered to the Lord Chancellor immediately under the provisions of Section 52(7) of the Access to Justice Act 1999 and ultimately surrendered to the Consolidated Fund.

The Legal Services Act establishes the Legal Services Board (LSB) as the overarching regulator for the handling of complaints about the provision of legal services. On 18 June 2008 the Parliamentary Undersecretary of State Ministry of Justice announced that the LSB is expected to become fully operational in early 2010 and the OLSCC will close in March 2010.

17. LIQUIDITY RISK

OLSCC has no borrowings and its net resource requirements are met from resources voted annually by Parliament to MoJ. MoJ then settles all OLSCC's financial transactions irrespective of when the income from the Law Society is received and remitted to MoJ. OLSCC is not therefore exposed to significant liquidity risk.

Also, OLSCC has no deposits, as cash at bank is held in MoJ's bank accounts and not included in these accounts. All material assets and liabilities are denominated in sterling, so it is not exposed to interest rate risk or currency risk.



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