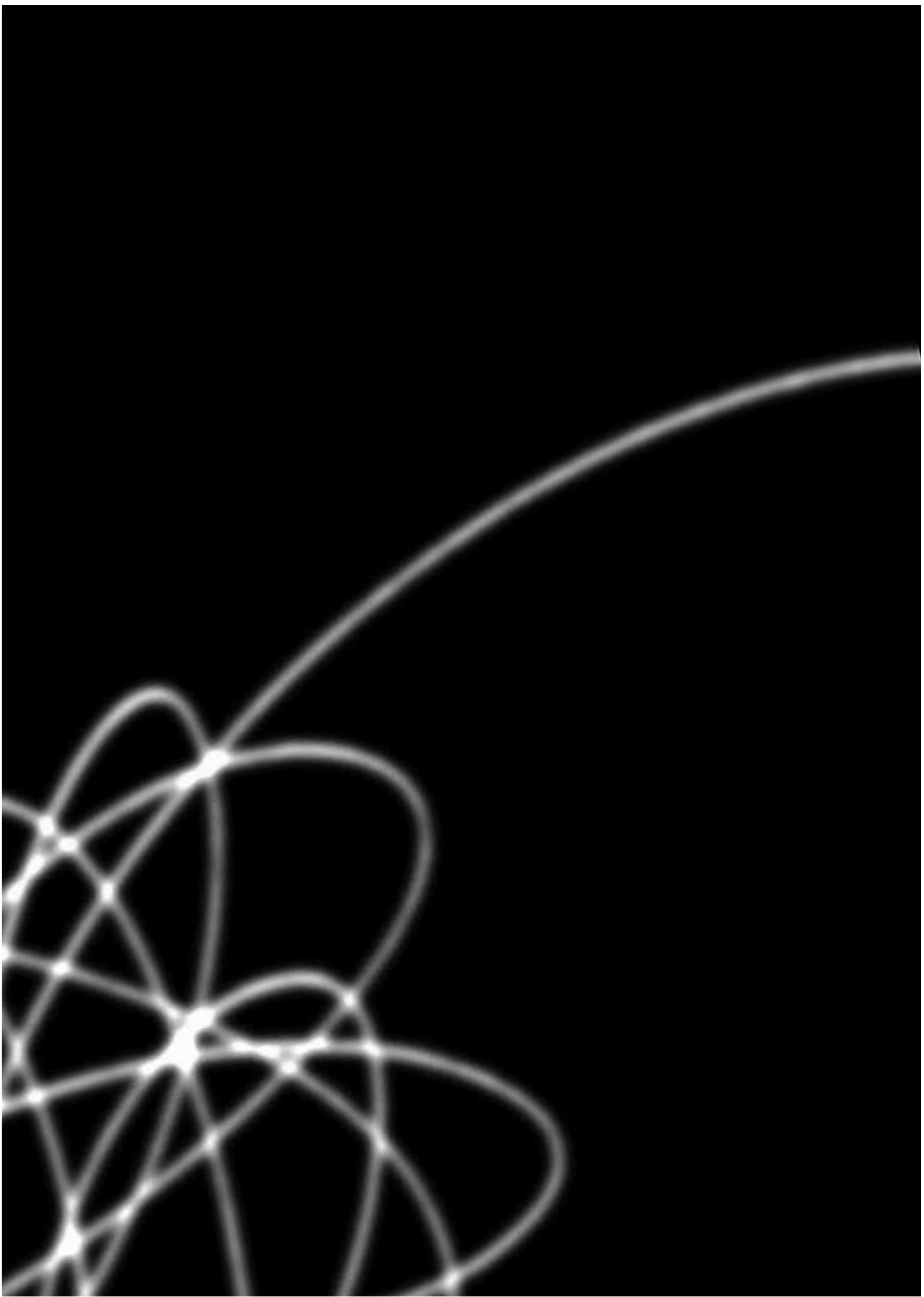


Pushing for change

**Interim Report on the Law Society's
complaints handling performance
April to September 2005**



Legal Services
Complaints
Commissioner





**First Interim Report of the Legal Services Complaints Commissioner
1 April 2005 – 30 September 2005**

Presented to Parliament by the Secretary of State
for Constitutional Affairs and Lord Chancellor

by Command of Her Majesty
November 2005

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Commissioner's team

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When my first Annual Report as Commissioner was published in July, covering the year April 2004 to March 2005, I commented that I had been able to declare the Law Society's Plan for delivery against my targets in 2005-06 as adequate. This Interim Report evaluates the Law Society performance against its Plan for improvement over the first six months of the year from 1 April 2005 to 30 September 2005.



Law Society performance

I have set targets in four key areas for 2005-06. These are:

- Timeliness - people want their complaints resolved in a reasonable time;
- Customer satisfaction - this includes impartiality, a clear process, and an effective remedy where one is appropriate;
- Quality of decisions (based on the Legal Services Ombudsman - LSO - satisfaction rating) - covering consistency, following procedures properly, and ensuring there is no unfair discrimination in complaints handling decisions; and
- Delivery of plans - this involves a proper planning process drawing together people with the right skills, using quality systems, and delivering the intended level of performance within reasonable timescales and then sustaining it.

I am pleased to report that the Law Society has begun to deliver against its Plan and that some aspects of its performance are showing encouraging signs of improvement against that in 2004-05. In particular, I am pleased to note that in some areas of the timeliness targets the Law Society is meeting my requirements for performance in its first year of improvement. However, across the targets as a whole the improvements have been modest in nature and as I said in my Annual Report, the targets I set were a small step towards effective and efficient complaints handling, reflecting the poor historical base from which the Law Society was starting.

To date the Law Society is missing five out of the seven targets it has in its Plan - missing three of the targets for timeliness, the target for quality of decisions and the target for customer satisfaction. If the Law Society is to take a step towards achieving the level of performance a consumer and the profession should expect, it needs to step up

its performance over the remaining six months of the year.

So, whilst I am pleased to acknowledge some progress, this is yet to manifest itself across the whole range of the targets. I am still particularly concerned about the number of older cases outstanding, that is those over 12 months old. Long-running cases should be very much the exception, however, the Law Society still has 200 cases that are over 2 years old. It is also disappointing to note that almost four out of ten of all consumers remain dissatisfied with the way in which the Law Society handled their complaint.

The Law Society currently reports its financial information on a calendar year basis. I was pleased to note that the Law Society made an additional £4.7 million available to improve its complaints handling for the calendar year 2005, to support its complaints handling Plan for 2005-06 and facilitate achievement of the targets. So far it has an under spend against its budget forecasts in a number of key areas, which, based on spend so far, is likely to be £3.9 million by the end of December 2005. In other words, if not corrected, little of its planned additional expenditure will have been utilised. Part of the underspend may be due to the Law Society not increasing its staffing to the levels it forecast it would need to deliver the work outlined in its Plan. I urge the Law Society to make all efforts to use its resources to meet the targets over the remainder of the year and make demonstrative efforts to meet its Plan.

Further issues for consideration

There are three emerging areas which I will be monitoring on behalf of consumers over the coming months and which I may decide to investigate further. The first relates to the increase in complaints received by the Law Society concerning the sale of financial products by its members. My concern is that consumers who have purchased a financial product from a solicitor may not always be entitled to the same level of redress as consumers who have bought a

similar financial product from a financial organisation regulated by the Financial Services Authority. I shall be investigating the potential scale of this problem to decide whether further review by my Office is necessary.

Secondly, I will be monitoring carefully the impact of the increased number of complaints relating to the Coal Health Compensation Scheme being received by the Law Society. I may wish to review the Law Society's arrangements for handling these complaints with a view to considering whether improvements can be made.

The third emerging area is in relation to the Consumer Complaints Board and Regulation Board of the Law Society. These Boards will become fully operational in January 2006. I welcome the focus which I hope these new Boards will bring to the Law Society's complaints handling performance. However, complaints are handled in different units within the Law Society: the Consumer Complaints Service (CCS) which is covered by the new Consumer Complaints Board and the Conduct Assessment and Investigation Unit (CAI) which is covered by the new Regulation Board. There are areas of operational overlap and I am concerned as to how these two Boards will work together to ensure that consumers get a fair and effective service, whichever part of the Law Society handles their complaint.

Pushing for change

At the time of the publication of my Annual Report I stated that the year ahead would be challenging. I reiterate that sentiment here and also state that whilst there has been progress by the Law Society there is still much to do to sustain that progress and close the gaps in those areas where there has been less significant improvement.

I look forward to working with the Law Society over the remainder of the year ahead and hope that the Law Society continues to build on the improvements that have been made to date. At the end of the year I will have to decide if the

Law Society has handled complaints in accordance with its Plan or not, and, if not, to consider if a penalty is appropriate. I urge, over the next six months, the Law Society to utilise all of the resources available to it to meet the targets in its Plan.

I am pleased to report the positive working relationship that has been built and maintained between my staff and those in the Law Society during the period covered by this report. I look forward to this constructive relationship continuing. I also greatly value the support I have received from consumer groups and my own Advisory Board as we push for change together.

I would like to thank my staff at OLSCC for their unwavering pursuit of improved performance in complaints handling on behalf of the consumer.

Zahida Manzoor CBE
Legal Services Complaints Commissioner

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Executive summary

Introduction

My challenge continues to be to deliver better standards of legal services for the consumer and to reverse a long history of poor performance by the Law Society in its handling of complaints.

Since my office was set up it has spent considerable time working closely with the Law Society to better understand its organisational structures, policy, standards, practices, processes and systems. This effort by my staff to understand in greater detail the Law Society business has enabled constructive discussions on future target setting and measurement.

I am encouraged that there has been some improvement in the performance of the Law Society - particularly in the timeliness targets. However, further improvements are still needed in order to meet all of the targets. If the Law Society is to take a step towards achieving the level of performance a consumer and the profession should expect, it needs to step up its performance over the remaining six months of the year.

Background

Following my appointment I requested that the Law Society provide a plan showing how it would deliver performance improvements in the financial year 2005-06 in its complaints handling system and processes. On 16 May 2005 I declared the Law Society's Plan as adequate¹. This Plan covers the complaints handling arm of the Law Society: both the Consumer Complaints Service, (CCS), which handles the majority of consumer complaints made against solicitors in England and Wales; and the Conduct Assessment and Investigation Unit, (CAI), which is responsible for dealing with conduct complaints and specialist areas. This Interim Report evaluates the Law Society's performance against its Plan over the first six months of the year from 1 April 2005 to 30 September 2005.

1. The plan can be viewed on the Law Society's website, www.lawsociety.org.uk

Targets

The targets for 2005-06 are shown in full at Appendix 1 and cover four areas: timeliness, customer satisfaction, quality of decisions and delivery of the Plan, including the Law Society's initiatives, staffing and resources and budgets. In general there have been some performance gains during this period compared with both the same period last year and performance in 2004-05 as a whole. In particular there have been modest improvements in some of the timeliness targets and in the quality of decision making based on the Legal Services Ombudsman (LSO) satisfaction rating.

Law Society performance against the Plan – 1 April 2005 to 30 September 2005

During the period from April 2005 to September 2005, the Law Society's complaints handling service:

- received 9,043 new complaints;
- closed 9,297 complaints;
- reduced its live caseload by 4%, from 6,492 at the start of the year to 6,238;
- showed improvements in the timeliness targets – in particular cases closed within 3 and 6 months;
- reduced the number of its outstanding cases which are over 18 months old from 563 to 413, a step in the right direction;
- has produced a poor performance in customer satisfaction, (4 percentage points down on performance over the same period last year), with just under 4 out of 10 of its customers continuing to be dissatisfied;
- has averaged 68% on its quality of decisions performance – 5 percentage points up on the same period last year; and
- has been operating in a relatively stable caseload environment.



Timeliness

Average for 6 month period	Within 3 months	Within 6 months	Within 9 months	Within 12 months	Within 18 months
April 04 – Sept 04	50%	71%	N/A	87%	94%
April 05 – Sept 05	53%	75%	84%	89%	94%
2005 – 06 Targets	53%	75%	85%	92%	98%

Fig. 1 Timeliness – comparison of performance between April and September 2004 and 2005

When performance in the first six months of the current year is compared with the same period in 2004-05 it is encouraging to note that there are performance improvements in all of the timeliness targets, in particular the cases closed within 3 and 6 months.

It is encouraging that the overall number of “older” cases is reducing. However, the Law Society

needs proactive management to focus on further reducing the number of cases over 12 months old and also those approaching 18 months of age, (there are currently 200 cases which are over two years old). Long-running cases should be very much the exception. I remain concerned and I will continue to monitor how such cases are progressed.

Customer satisfaction

Year	April	May	June	July	Aug	Sept	Average performance	Target 2005 – 06
April 04 – Sept 04	63%	68%	60%	61%	64%	65%	64%	
April 05 – Sept 05	57%	60%	62%	55%	60%	63%	60%	68%

Fig. 2 Customer satisfaction – comparison of performance between April and September 2004 and 2005

This measure is based on a complainant’s satisfaction with the service they received from the Law Society in the way in which their complaint was handled.

Figure 2 shows customer satisfaction levels for the period April 2005 to September 2005 and the corresponding period last year. Compared with the same period last year the Law Society’s performance is lower. This is disappointing. Between April 2004 and September 2004 the Law Society average was 64% compared with 60% for this year. In real terms this means that almost four out of ten consumers remain dissatisfied with the way in which the Law Society handled their complaint.

Based on performance in the first half of the reporting year and if all other factors remain the same, to achieve the target of 68%, the Law Society will have to average a performance of 76% in each of the remaining six months. I urge the Law Society to take the appropriate action necessary to make improvements in this key area.

Quality of decisions

Year	April	May	June	July	Aug	Sept	Average performance	Target 2005 – 06
April 04 – Sept 04	61%	60%	64%	65%	68%	61%	63%	
April 05 – Sept 05	56%	65%	66%	66%	72%	79%	68%	70%

Fig.3 Quality of decisions – comparison of performance between April and September 2004 and 2005

This target is measured against the LSO rating and is based on the percentage of cases referred to the LSO by consumers, which resulted in the LSO upholding the way the Law Society handled the case. A total of 7% of Law Society casework has been referred to the LSO by consumers between April 2005 and September 2005.

Comparing performance with that for the same period last year, as shown in Figure 3, Law Society performance has improved. Average performance for April 2004 to September 2004 was 63% whilst it is 68% for the same period in 2005. This is very welcome news.

I am pleased to note the recent improvements in quality of decisions and I hope that this improvement will continue to be built upon. However, year-to-date, (YTD), performance is still short of my target. Based on performance in the first half of the reporting year, and if all other factors remain the same, to achieve the target of 70% the Law Society will have to average a performance of 73% in each of the remaining six months.

Initiatives

When I first became Commissioner the Law Society had over 30 initiatives planned. I was concerned that this number of initiatives would prove difficult to implement in practice and were not sufficiently focused on those areas that would deliver the greatest improvements to consumers. In order to focus the Law Society on areas where its complaints handling service could be improved, I drew up a set of recommendations and asked the Law Society

to respond to the recommendations when it submitted its Plan. It is pleasing to note that the Law Society has acted on this and included fewer more focused initiatives in its Plan for 2005-06 to address most of my recommendations.

Whilst it is still too early to ascertain the success and value of the initiatives my office will continue to work with the Law Society and monitor not only the delivery of these initiatives, but also the impact in terms of improved performance.

Staffing and resources

Historically, the Law Society has had difficulty meeting its staffing needs. In the period covered by this report the Law Society's net increase in capacity does not meet the levels it forecast it would need to deliver the work outlined in the Plan. My staff will continue to work closely with the Law Society in order to monitor progress on recruitment of staff to ensure this additional capacity, is gained. It also needs to aim to reach its maximum productivity. Unless this happens it will be unable to deliver and maintain an enhanced output without the regular use of other resources. The use of outsourcing of work should be seen as a pragmatic short-term solution to be used when casework intakes rise, not during a continued period of stability.

I am encouraged that there has been some improvement in the performance of the Law Society. However, if the Law Society is to take a step towards achieving the level of performance a consumer and the profession should expect, it needs to step up its performance over the remaining six months of the year.

Budget

The Law Society currently reports its financial information on a calendar year basis. To date, covering the period of this report, the Law Society has a considerable underspend against its budget forecasts in a number of key areas, in particular around staffing costs and the use of outsourcing as additional capacity to handle case files. This is an area for concern as it could impact on the Law Society's ability to deliver the targets. I have therefore recommended that the Law Society look at other service delivery options such as the use of staff on retained or short term contracts and further use of its Local Conciliation Officers.

Supporting improvements

My Investigations team has undertaken two audits of the Law Society's complaints handling processes. The first, in February 2005, investigated the consistent and appropriate application of the counting rules agreed between the Law Society and the LSO and also examined the use of temporary closures. The second audit, undertaken in May and June 2005, looked into the application of the policy relating to the award of ex-gratia payments. Evidence was gathered by examining 328 case files closed during 2004 and through interviews with Law Society staff.

Delay remains an area for concern. Both of the audits conducted by my office found issues across the same areas and my subsequent recommendations to the Law Society relate to these. The main reasons for delay centred around a failure to allocate files quickly and delays during the progress of the case.

In general, I was disappointed that such a high proportion of the audited files contained problems of some kind, including lack of appropriate and consistent application of the ex-gratia policy, effective assessment of cases at the outset, active case management and delay. This highlights the urgency and necessity

of the Law Society to take action and address these areas.

As a result of these audits I have given the Law Society my formal recommendations, which cover:

- allocating cases more quickly and ensuring consumers are updated every 30 days with information pertinent to their case – in line with its own Key Performance Indicator (KPI);
- having in place a more robust system of active case management and regular line management interventions;
- managing its customers' expectations better to improve their satisfaction of its service;
- further improving the quality and consistency of its decisions; and
- acting decisively on delays in its processes.

During July and August 2005 my office also undertook a benchmarking survey of a number of organisations considered comparable to the Law Society, in terms of their complaints handling service, to identify good practice. I am particularly grateful to the organisations that agreed to participate in the survey.

In conclusion, I look forward to further progress during the remainder of the year. My office will continue to work with the Law Society to help deliver improvements to the service it offers to consumers.

As I stated in my Annual Report 2004-05, my aim, as Legal Services Complaints Commissioner, is to ensure that complaints about the Law Society's 116,000 members are handled effectively and efficiently by the Law Society.

My primary challenge continues to be to deliver better standards of legal services for the consumer. My view remains that the Law Society's system has to be impartial, user-friendly, timely, proportionate, transparent and must offer appropriate redress when things go wrong.

My responsibilities

Following my appointment as Commissioner in February 2004 I have at my disposal three primary mechanisms to enable me to deliver improved complaints handling for the consumer. These are:

- to set targets for improvements in the performance of the Law Society in handling complaints;
- to request plans from the Law Society detailing how it intends to deliver those improvements; and
- to levy financial penalties if it fails to provide adequate plans or deliver improvements in accordance with those plans.

In addition, I have powers to:

- require the Law Society to provide information or make reports about its handling of complaints;
- undertake investigations into the handling of complaints by the Law Society; and
- make recommendations in relation to its handling of complaints.

Fulfilling my responsibilities

Since my office was set up it has spent considerable time working closely with the Law Society to better understand its organisational structures, policy, standards, practices, processes and systems.

The introduction of monthly and quarterly strategic review meetings with the Law Society has enabled a clear focus on performance. They provide the opportunity not only to discuss performance against the targets but also progress against the Law Society's Plan and the initiatives within it, budget spend, progress against recruitment targets and issues impacting on performance.

As well as instigating these review meetings with the Law Society, my office has been collaborating with the Law Society in key performance areas, such as analysis of the measures used for customer satisfaction and quality, in an effort to see performance improvements in these areas.

This effort by my staff to understand in greater detail Law Society business has enabled constructive discussions on future target setting and measurement. Work on the new targets has commenced and it is my intention to share my thoughts on these with the Law Society in November 2005. By early March 2006 we aim to agree the Law Society Plan, which will detail how it will meet these new targets.

Background

Following my appointment I requested that the Law Society provide a plan showing how it would deliver performance improvements in the financial year 2005-06 in its complaints handling system and processes. On 16 May 2005 I declared the Law Society's Plan as adequate². This Plan covers the complaints handling arm of the Law Society: both the CCS, which handles the majority of consumer complaints made against solicitors in England and Wales; and the CAI, which is responsible for dealing with conduct complaints and specialist areas. This Interim Report evaluates the Law Society's performance against its Plan over the first six months of the year from 1 April 2005 to 30 September 2005.

Targets

The targets for 2005-06 are shown at Appendix 1 in full and cover four areas: timeliness, customer satisfaction, quality of decisions and delivery of the Plan, including the Law Society's initiatives, staffing and resources and budgets. In general there have been some performance gains during this period compared with both the same period last year and performance in 2004-05 as a whole. In particular there have been modest improvements in some of the timeliness targets and in the quality of decision making based on the LSO satisfaction rating. The targets are designed to provide some stretch and realistic scope to increase performance.

Law Society performance against the Plan, 1 April 2005 to 30 September 2005

During the period from April 2005 to September 2005, the Law Society's complaints handling service:

- received 9,043 new complaints;
- closed 9,297 complaints;
- reduced its live caseload by 4%, from 6,492 at the start of the year to 6,238;
- showed improvements in the timeliness targets – in particular cases closed within 3 and 6 months;
- reduced the number of its outstanding cases which are over 18 months old from 563 to 413, a step in the right direction;
- has produced a poor performance in customer satisfaction, (4 percentage points down on performance over the same period last year), with just under 4 out of 10 of its customers continuing to be dissatisfied;
- has averaged 68% on its quality of decisions performance - 5 percentage points up on the same period last year; and
- has been operating in a relatively stable caseload environment.

2. The plan can be viewed on the Law Society's website, www.lawsociety.org.uk

Fig. 1 Matter types

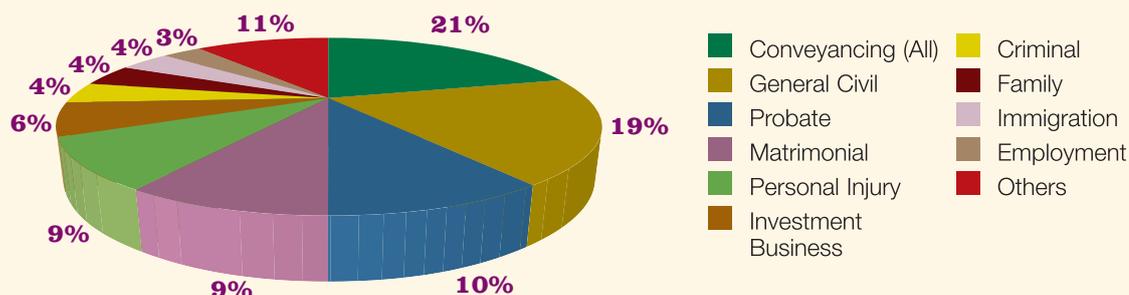


Figure 1 shows the types of complaints received by the Law Society in percentage terms based on the categories of law. It shows that the majority of complaints relate to conveyancing.

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Performance against targets - the year to date in focus continued

Timeliness

Average for 6 month period	Within 3 months	Within 6 months	Within 9 months	Within 12 months	Within 18 months
April 04 – Sept 04	50%	71%	N/A	87%	94%
April 05 – Sept 05	53%	75%	84%	89%	94%
Target 2005 – 06	53%	75%	85%	92%	98%

Fig. 2 Timeliness – comparison of performance between April and September 2004 and 2005

I have set timeliness targets because consumers should be able to expect that their complaint will be resolved in a reasonable time. When performance in the first 6 months of the current year is compared with the same period in 2004-05 it is encouraging to note that there are performance improvements in the majority of the timeliness

targets, in particular the cases closed within 3 and 6 months. When performance so far this year is viewed against performance for the whole years 2003-04 and 2004-05 (Figure 3) performance levels are up in four out of five of the timeliness areas, but only two timeliness targets are actually being met.

Note: 9 month timeliness data is only available from January 2005 – on that basis the performance achieved in 2004-05 is based on the figures returned by the Law Society for the period 1 January to 31 March 2005.

Cases cleared within	2003-04	2004-05	April 05 – September 05	Target 2005-06
3 months	42%	51%	53%	53%
6 months	65%	72%	75%	75%
9 months	No target	83%	84%	85%
12 months	87%	88%	89%	92%
18 months	95%	94%	94%	98%

Fig. 3 Timeliness averages April 2003 – September 2005

I identified a number of KPIs that were designed to support the targets. These KPIs enable me to monitor the Law Society's progress against key activities that will contribute to overall improvements across the target areas. The KPIs supporting the timeliness targets provide the means to examine the Law Society's case profile and to draw conclusions about how it is managing these cases. I have summarised some of the main points from these below.

by the Law Society Council to improve its complaints handling performance, (it is currently forecast to underspend substantially), it may have had a real opportunity to reduce this caseload level and exceed the targets set. It is therefore disappointing that only modest progress has been made against the targets to date. I would encourage the Law Society to commit these resources over the next 6 months, to help it achieve the targets.

At the beginning of April 2005 the Law Society caseload stood at 6,492 cases as work in progress. By the end of September 2005 that figure had reduced by 4% to 6,238 and it is closing an average of 42 more cases per month than it receives. This is against a background of a relatively stable caseload intake and stable productivity levels, which are highlighted by Figures 4 and 5. Had the Law Society made full use of the additional money made available



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Performance against targets - the year to date in focus continued

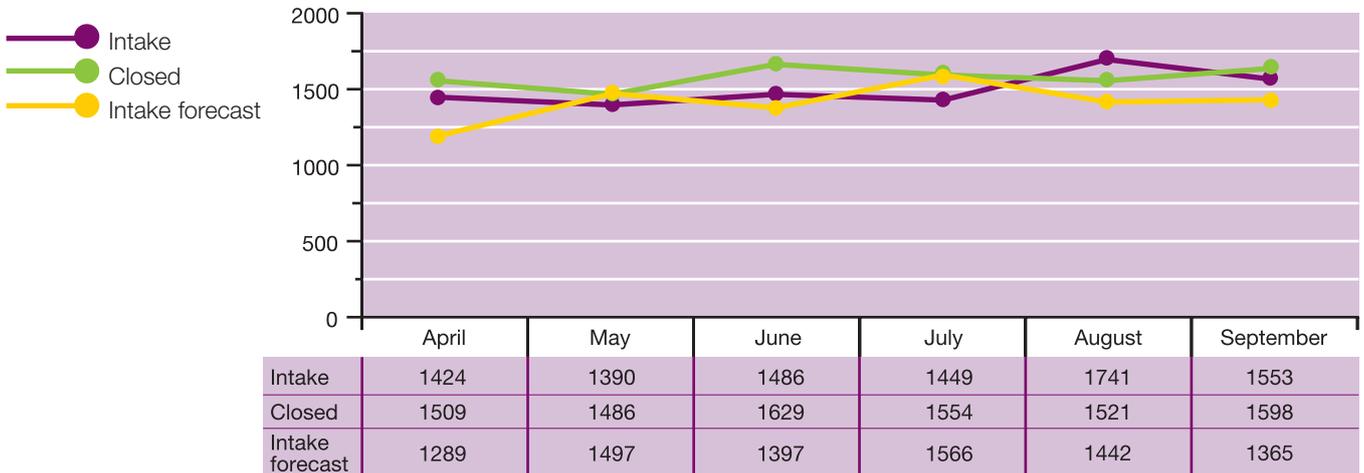


Fig. 4 Receipts and closures – April 2005 to September 2005

Figure 4 shows the number of cases received against the number of cases closed, which has been relatively close to the Law Society's forecasts for the period April 2005 to September 2005. Based on the same average intake continuing for the remainder of the year there is the potential for the Law Society to receive 18,085 new cases in 2005-06, which compares against its own forecast of 17,357. This increase against forecast appears to be as a result of an increase in the numbers of Coal

Health Compensation Scheme cases and Business Investment cases. The Law Society reports that it intends to manage these through specialist teams.

In terms of a business environment the Law Society has therefore had a relatively stable caseload intake, with the exception of August and September. Caseloads over the last six years have not exceeded 17,500. Indeed in 2001-02 it was less than 11,000, (Figure 5).

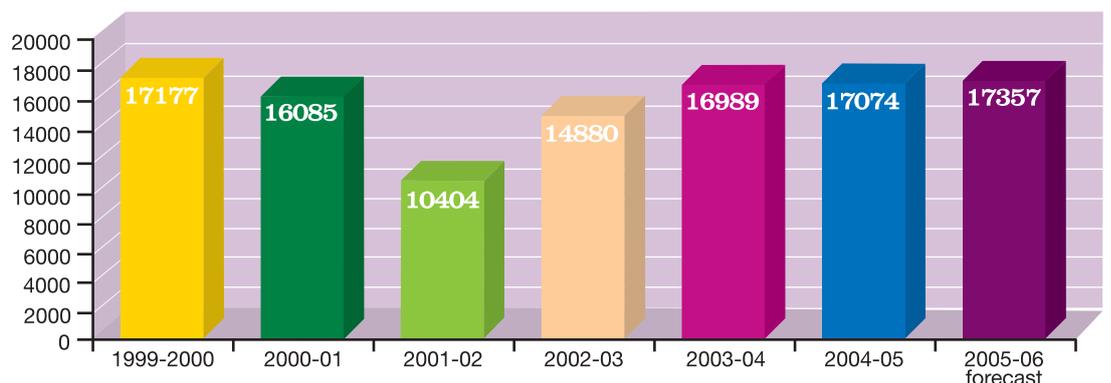


Fig. 5 Cases received

In my Annual Report I expressed my concerns that at the end of 2004-05 the Law Society had 563 cases over 18 months old. Figures 6 and 7 highlight that the Law Society's efforts over the last six months has had an impact on reducing the number of its cases which are over 12 and 18

months old. However, I remain concerned that too many new cases continue beyond 12 months, (840 cases or 13% of all live cases are over 12 months old), because of delays in the Law Society's processes.

Long-running cases should be very much the exception. Urgent action by the Law Society is now

needed to further reduce these and I will continue to monitor how such cases are progressed.

Period	0-3 Months	4-6 Months	7-9 Months	10-12 Months	13-18 Months	Over 18 Months	Total
31 March 2005	2875 (44%)	1305 (20%)	718 (11%)	461 (7%)	570 (9%)	563 (9%)	6492
30 September 2005	3065 (49%)	1254 (20%)	687 (11%)	392 (6%)	427 (7%)	413 (7%)	6238

Fig.6 Make up of caseload at 30 September 2005 compared with that at 31 March 2005

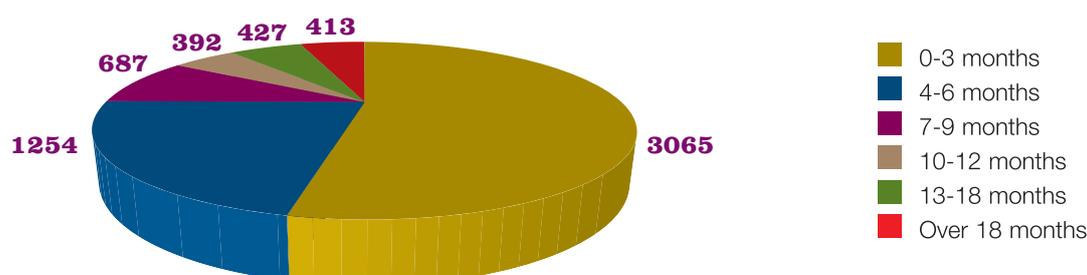


Fig. 7 Breakdown of cases outstanding at 30 September by age

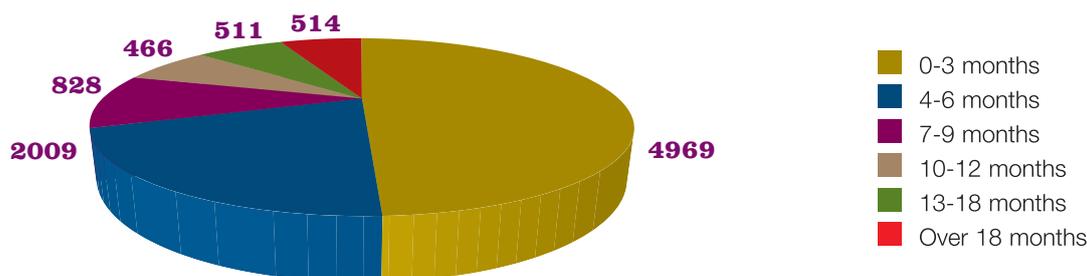


Fig. 8 Cases closed by age between April and September 2005

I also monitor the Law Society against the number and age of its unallocated cases, (Figure 9). These are cases that have not yet been assigned to a caseworker and the number of unallocated cases currently stands at over 1,200, or approximately 21%, of the outstanding live caseload. The number of unallocated cases has reduced within the area of the Law Society that deals with conduct, as a result of some outsourcing, but has increased in the part of the Law Society which leads on service complaints. The Law Society believe that this

is partially a result of its initiatives aimed at capacity planning, as cases are no longer being passed to caseworkers who, in its opinion, are already full to capacity. I hope that this is so as once cases are managed more effectively, productivity should increase and eventually reduce the number of unallocated cases. However, it highlights once again that the Law Society needs to make full use of its resources for this year to improve its overall capacity for case handling.

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Performance against targets - the year to date in focus continued

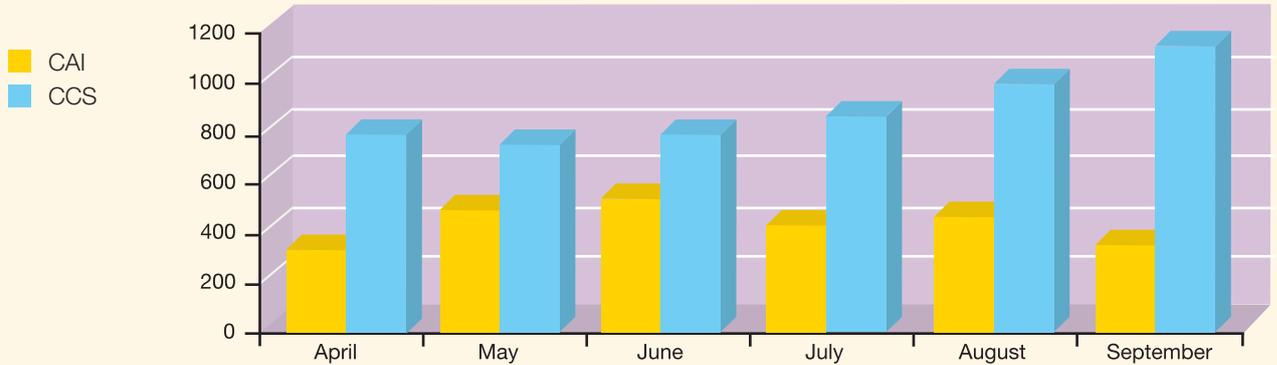


Fig. 9 Number of cases unallocated split by Consumer Complaints Service (CCS) and the Conduct Assessment and Investigation Unit (CAI)

Achieving the timeliness targets can also be affected by cases being transferred between teams. The number of internal case transfers over this period is 545 and the average age of such cases is 81 days.

I am concerned that cases can remain unallocated in the new team once they have been transferred. This has been identified in my recent audits and could impact on customer satisfaction.

Customer satisfaction

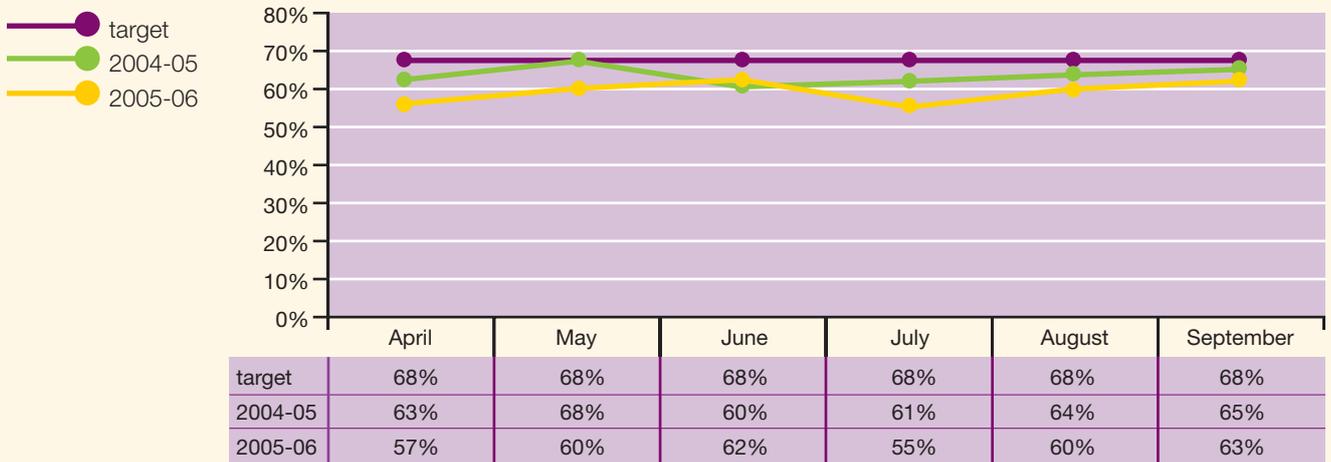


Fig. 10 Customer satisfaction - comparison of performance between April and September 2004 and 2005

This measure is based on a complainant's satisfaction with the service they received from the Law Society in the way in which their complaint was handled.

64% compared with 60% for the same period in 2005. In real terms this means that almost four out of ten consumers remain dissatisfied with the way in which the Law Society handled their complaint.

Compared with the same period last year the Law Society's performance is lower. Between April 2004 and September 2004 the Law Society average was



3

Performance against targets - the year to date in focus continued

Figure 11 shows that the Law Society's performance has not improved over the last 2.5 years. This could be due to the issues already identified in my audits, including problems with delay, appropriate and consistent application of the ex-gratia policy, effective assessment of the case at

the outset and a lack of active case management. Based on performance in the first half of the reporting year, and if all other factors remain the same, to achieve the target of 68%, the Law Society will have to average a performance of 76% in each of the remaining six months.



Fig. 11 Customer satisfaction - April 2003 to September 2005

The KPIs supporting this target provide the means to examine the areas that may be impacting on customer satisfaction. One of the key findings from this is that there is a significant performance disparity between the two main complaints handling parts of the Law Society, the CCS and CAI. CAI, the unit responsible for handling conduct matters, is only achieving an average of 30% satisfaction compared to 68% for CCS. It concerns me that CAI has such a low customer satisfaction and I have asked the Law Society to investigate the causes of this further.

As part of the KPIs under-pinning the customer satisfaction target I also monitor the number and size of the ex-gratia payments which the Law Society makes. These are payments that the Law Society makes when a consumer has suffered financial loss, inconvenience or distress because of a failing in its service. Ex-gratia payments are on a downward trend compared to the same period last year, (707 payments against 956 and an average award of £209 against £244 for the same period last year). It is unclear whether this is mainly due to the improvements that the Law Society has made in its timeliness at dealing with cases, which

means that ex-gratia payments may not be necessary, or due to changes in the ex-gratia policy, where some ex-gratia payments will only now be made at the request of the consumer. As part of my audit programme I will assess the impact of this policy to review whether it is being applied evenly and fairly to all consumers.

In looking at customer satisfaction I also monitor the number of times the Law Society does not contact consumers every 30 days to update them on the progress of their case. This is important because it ensures that consumers understand the progress of their case and may impact on their satisfaction with its service. This is averaging at 255 cases per month, approximately 4.1% of its work in progress, where the consumer has not been updated.

Quality of decisions

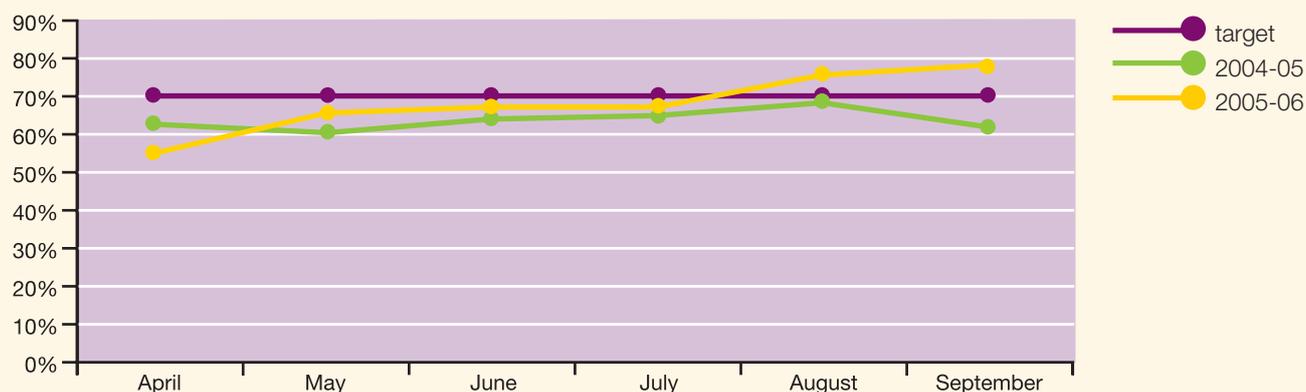


Fig.12 Quality of Decisions - comparison of performance between April and September 2004 and 2005

This target is measured against the LSO rating and is based on the percentage of cases referred to the LSO by consumers, which resulted in the LSO upholding the way the Law Society handled the case. A total of 7% of Law Society casework has been referred to the LSO by consumers between April 2005 and September 2005.

Comparing performance with that for the same period last year, the figures show that Law Society performance is up – performance between April and September 2004 was 63% whilst in 2005 it is 68%. This is very encouraging.

The Law Society is not meeting the target for this year. However, in the first half of this year it has improved its performance by 6 percentage points against the whole of last year and 15 percentage points on the whole of 2003-04, (Figure 13).

Based on performance in the first half of the reporting year, and if all other factors remain the same to achieve the target of 70% the Law Society will have to average a performance of 73% in each of the remaining six months.

2003-04	2004-05	April 05 – September 05	Target 2005-06
53%	62%	68%	70%

Fig.13 Quality of decisions (LSO satisfaction rating) - comparison of performance between 2003-2004 and 2005-2006

Conclusion

It is encouraging that some progress against my targets is being made, particularly at the front end of the timeliness targets. However, it still has to be recognised that at this point in time the Law Society is not meeting the majority of my targets. In particular, performance against the customer satisfaction target is poor.

In the final analysis the Law Society needs to step up its performance, and make full use of its resources, over the remaining six months of the year if it is to take a step towards meeting the level of performance a consumer and the profession should expect.

4

Delivering the Plan



When I first became Commissioner, the Law Society had over 30 initiatives planned. I was concerned that this number of initiatives would prove difficult to implement in practice and were not sufficiently focused on those areas that would deliver the greatest improvements to consumers.

Law Society initiatives 2005-06

Last year, in order to focus the Law Society on areas where its complaints handling service could be improved, I drew up a set of recommendations and asked the Law Society to respond to the recommendations when it submitted its Plan. It is pleasing to note that the Law Society has acted on this and included fewer more focused initiatives in its Plan for 2005-06 to address most of my recommendations, including the introduction of recognised project management disciplines in terms of initiating, implementing and monitoring initiatives. This has helped it to begin to deliver against its Plan and it is encouraging to note that it has already completed a small number of initiatives.

Once initiatives have been fully implemented I will be requesting information on their impact to help ensure that any benefits identified are actually realised from implementing the change. It is important that the Law Society follows up implementation of each of its initiatives by impact analysis to establish any links with performance improvements.

I already receive regular information on the Law Society's progress against key milestones within these projects. Whilst it is still too early to ascertain the success and value of the initiatives, my office will continue to work with the Law Society and monitor not only the delivery of these initiatives, but also the impact in terms of improved performance. If implemented successfully, delivery of the initiatives should begin to provide a solid foundation from which performance can be enhanced and sustained.

As examples of this work, I have listed below some of the recommendations I made to the Law Society and the action that the Law Society has put in place to address these.

Delay

I have always been concerned about the level of delay being experienced by consumers with relation to their cases, concerns which were reinforced following the audits my office has undertaken this year. As a result I recommended that the Law Society should undertake an exercise to provide a systematic analysis of the main

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Delivering the Plan continued

causes of delay, where in the process they occur and whether potential problems in handling complaints can be spotted earlier so that action can be taken.

I am pleased that the Law Society acted on this by including an initiative aimed at identifying delay patterns in its current processes. If implemented successfully, the Law Society believes that this work will reduce the time it takes to deal with cases and thereby provide an improved service to the consumer. This project will be completed in December 2005 and the Law Society has reported that it has already identified a number of areas where the process for managing cases can be improved. This includes reducing delays in the report writing process. I will await the outcome of the changes before deciding where I recommend further improvements in the future.

Delays in managing a case can also be caused by late responses from solicitors to Law Society requests for information. In order to understand and manage the issues relating to this, I recommended that the Law Society develop a more systematic approach to setting deadlines and monitoring timescales for replies by solicitors. In response, the Law Society included an initiative in its Plan aimed at improving the timeliness of response from solicitors. Although I was disappointed that the full benefits from this initiative would not be delivered until June 2006, the Law Society now informs me that as a result of other initiatives some aspects of this are being delivered earlier.

Customer service standards

Consumers have a right to know up-front what service they can expect from the Law Society's complaints handling arm. I therefore recommended that the Law Society develop and implement its 'customer proposition', including publication of its service standards and mechanisms for monitoring compliance against them.

The Law Society internally agreed its service standards prior to the official start date of the Plan

and included an initiative in its Plan aimed at publishing its service standards and promoting them to the consumers of legal services. I am pleased to note the progress of this.

The Law Society has reported that its own internal quality review checks over the last two quarters show that in general staff are adhering to the customer service standards in the handling of complaints, particularly in relation to timely telephone response and keeping consumers updated prior to allocation of their case. The Law Society is now developing quality review processes aimed at bringing about continuous improvement, which I am encouraged to see. I view this as an essential tool to drive up performance.

Effective use of resources

In order to ensure that the Law Society is better able to manage its cases, I recommended that it should develop greater internal capacity to understand the relationships between resource inputs and outputs. This has been addressed by the Law Society including an initiative in its Plan aimed at improving its resource planning and forecasting. This is due to deliver in December 2005 and has involved the Law Society in rolling out a capacity planning tool. The Law Society believes this should aid the effective planning of workloads, reducing the time it takes to deal with cases. On a visit earlier this year to the Holborn offices my staff were informed by those using it that they had seen an improvement in effective planning of individual workloads, tracking progress of cases, and reductions were seen in the time taken to deal with cases. If this is successful I urge other parts of the Law Society that deal with complaints to consider implementing it as soon as possible.

Handling of conduct cases

This initiative was aimed at implementing a Law Society Council strategy, which it believed would lead to more effective regulation through separation of consumer redress from complaints about a solicitor's conduct. In this process the CCS oversees cases involving consumer redress

while the CAI oversees cases involving a solicitor's conduct. I am concerned that a consumer will not appreciate fully the split that the Law Society has created and am not, therefore, convinced at this stage that this change is in the consumer's best interests. Because of my concerns for the consumer and to ensure that once a complaint had been transferred for investigation from CCS to CAI it was not forgotten about, I asked the Law Society to continue with measuring timeliness as before - throughout the life of the case and only categorised as closed once all matters raised by the consumer had been investigated and concluded. I will be reviewing this once it has been implemented fully.

Organisational development

This initiative focuses on assessing skills across the parts of the Law Society involved in complaints handling to ensure that staff have the necessary skills to carry out their jobs and included the introduction of personal development plans for staff. It was completed at the end of September 2005. I welcome the focus on utilising and upskilling staff and providing additional support within the complaints handling teams which, if implemented successfully, is good practice and I await information on the impact of this.

Quality measures

This initiative aims to review the measures that can be used to assess quality in the management of the Law Society's cases. The Law Society is currently developing this initiative which it believes will help to ensure that all decisions are delivered consistently and fairly.

Probate complaints handling

I am pleased that the Law Society Council agreed to implement this initiative which involves, including the beneficiaries of probate in the complaints that it will handle.

Budgets

A significant amount of additional financial resource is available to deliver the Law Society Plan for 2005-06.

The Law Society made an additional £4.7 million available to improve its complaints handling for the calendar year 2005, to support its complaints handling Plan for 2005-06. However, during the period January 2005 to September 2005 the Law Society has a considerable underspend against its budget forecasts in a number of key areas in particular around staffing costs and the use of outsourcing as additional capacity to handle case files. This is an area for concern as, based on this spend, the Law Society is likely to be £3.9 million underspent by the end of December 2005. In other words, if not corrected, little of its planned additional expenditure will have been utilised. This could clearly impact on the Law Society's ability to deliver its Plan and the targets. I have recommended that the Law Society look at other service delivery options such as the use of staff on retained or short term contracts and further use of its Local Conciliation Officers.

I want to see all efforts to improve service including redeployment of financial resource where this is appropriate. Given the stable business environment in which it operates there should be no surprises in terms of intake and the budget spend and staff needed to meet this. However staffing is currently significantly underspent. The Law Society should look to improve further its ability to manage its capacity and human resource planning.

Staffing and resources

As I have mentioned, one of the issues faced by the Law Society is that its spending forecast in terms of staff recruitment is not being realised and this is a real concern to me as it will almost certainly impact on the Law Society's capacity to meet the targets. In its Plan the Law Society indicated that it will increase the number of staff in its complaints handling operation, in particular the number of caseworkers, to meet its forecasted volume of new complaints in 2005-06. To meet this, the Law Society has reported that it has begun to recruit staff in batches rather than in a piecemeal fashion and has introduced new induction processes to aid assimilation into the organisation. I am pleased to note this.

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Delivering the Plan continued



However, in the period covered by this report the Law Society's net increase in capacity does not meet the levels it forecast it would need to deliver the targets.

Historically, the Law Society has had difficulty meeting its staffing needs. My staff will continue to work closely with the Law Society in order to monitor progress on recruitment of staff, to help to ensure the additional capacity the Law Society states it needs to deliver my targets, is gained. In addition, my office will continue to have constructive discussions on the way in which these additional caseworkers are deployed or to explore other capacity options.

Outsourcing complaints

The Law Society has continued to outsource some of its work in complaint handling to solicitors firms in order to reduce its backlog of cases and it currently uses four outsource firms. A total of 1,133 cases have been outsourced from April 2005 to add to the cases carried over from last year for action and of these 1,084 have been cleared. A total of 476 remain to be actioned.

The Law Society has indicated that outsourcing of casework is a key part of its strategy for meeting the targets I have set for 2005-06,

in particular as a resource to bring its backlog of cases under control. It has also indicated a quality assurance system is in place for the work produced by outsource firms. I am concerned that the Law Society see the outsourcing of complaints to legal firms as part of its core strategy. I see the use of outsourcing only as a pragmatic short-term solution and not one to increase its capacity to action all types of cases on an on-going basis. The Law Society must begin to proactively manage its own productivity in order to improve its own performance to maximise its complaints handling.

In my monthly and quarterly discussions with the Law Society it has said it is looking to maximise the use of outsourcing to provide additional capacity across its complaints handling including its appropriate use in conduct related cases. I have expressed my concerns about outsourcing conduct cases, which may form part of the regulatory function of the Law Society. For example, I am particularly concerned how cases are chosen to be outsourced, who at the Law Society makes that assessment and how conduct cases will be quality assured, as the outsourced solicitor is assessing the conduct of another solicitor. I will be exploring this matter further.

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Supporting improvement

During July and August my office undertook a benchmarking survey of a number of organisations considered comparable to the Law Society in terms of their complaints handling service, to identify good practice.

OLSCC benchmarking survey

The key areas explored were:

- timeliness in dealing with complaints;
- customer satisfaction measurement; and
- consumer service standards information.

In all, ten organisations participated and it was clear from the survey that there is a considerable amount of difference in the approaches taken by the different organisations. However, there was general agreement about some key aspects of complaints handling including effective quality control measures, case management and the need to manage customer expectations.

I am particularly grateful to the organisations that agreed to participate in the survey and a fuller report will be submitted in the Annual Report at the end of the year. I look forward to sharing the findings from this with the Law Society over the coming months.

OLSCC audit activity

My Investigations team has undertaken two audits of the Law Society's complaints handling

processes. The first, in February 2005, investigated the consistent and appropriate application of the counting rules agreed between the Law Society and the LSO and also examined the use of temporary closures. I reported on this in my Annual Report. In summary, this audit highlighted that 11% of the total number of cases closed over the year 2004-05 were closed using the temporary closure process. It confirmed that the Law Society was applying its policy consistently in most cases.

The second audit, undertaken in May and June 2005, looked into the application of the policy relating to the award of ex-gratia payments. Evidence was gathered by examining 328 case files closed during 2004 and through interviews with Law Society staff. This enabled collection of baseline data against which future improvements can be measured.

Both of the audits conducted by my office found issues across the same areas and my subsequent recommendations to the Law Society related to these. Delay remains an area for concern. The main reasons for delay centred around a failure to allocate files quickly and delays during the progress of the case. In general, I was disappointed that



such a high proportion of the audited files contained problems of some kind, particularly delay, and this highlights the urgency and necessity of the Law Society taking action to address these areas.

Following the audits I have recommended that the Law Society allocates cases more quickly, that on receipt of a complaint the Law Society advises the consumer of the anticipated timescales for the allocation of their case and that quality assurance processes are robust. In addition I have suggested that, in line with its own key performance indicator, it should keep consumers updated on the progress of their complaint every 30 days. At present the Law Society does not meet this KPI on 255 cases a month or over 3000 cases per year. This equates to some 4.1% of its current live caseload and must contribute towards some of the poor customer satisfaction feedback. It needs to address this urgently.

The Law Society has begun the process of responding to my recommendations and I will want to see what specific actions it will implement to address these recommendations, when these actions will be implemented and when it is expected that the benefits from these actions will begin to be realised.

In September my Investigations team began a comprehensive audit of casefiles. The aim of this audit is to consider a range of factors from delay on cases to the appropriate application of policies and procedures. The information gathered from this audit will be used to measure improvement against the baseline data from previous audits. It will allow me to establish whether the initiatives and changes to processes which the Law Society has implemented have had a positive effect on the handling of casework files.

The audit report will be finalised in November 2005 and will be available on my website, www.olsc.gov.uk. I will report on the outcome of my recommendations to the Law Society in my next Annual Report.

Based on the first six months performance, I recognise that the Law Society has some way to go to achieve effective and efficient complaints handling. The targets for 2005-06 are a small step towards this. I anticipated that effective and efficient complaints handling would take about three years in total – two years to make the improvements needed and a third year to show that the improvements could be sustained.

However, it is important to stress that whilst the Law Society has made some progress during the first six months of 2005-06, it has not been at the pace I, or the Law Society in its Plan, had envisaged, and there is still much to do. In particular I hope to see the gaps in performance against the targets met. To take a step towards achieving a level of performance a consumer and the profession should expect, the Law Society needs to use all the resources it has available to it and step up its performance over the remaining six months of the year.

It remains my view that the Law Society can continue to reduce its live caseload, especially the backlog of older cases, if the caseload intake remains as stable as it has been over the last three

years, and if the Law Society utilises all of its capacity to deal with casework anticipated in its Plan.

I also believe that the Law Society needs to focus on managing its customers' expectations better to help improve their satisfaction with its service. In addition, it needs to improve the quality and consistency of its decisions and it needs to act decisively on delays in its processes.

In conclusion, I look forward to further progress during the remainder of the year. My office will continue to work with the Law Society to help deliver improvements to the service it offers to consumers.

Glossary of terms

Act	Access to Justice Act 1999.
CAI	Customer Assessment and Investigation Unit, the part of the Law Society that is responsible for dealing with non-client conduct complaints and complaints in specialist areas such as immigration and discrimination matters.
CCS	Consumer Complaints Service, the part of the Law Society that handles the bulk of client related complaints made against solicitors in England and Wales by users of legal services.
Commissioner	Legal Services Complaints Commissioner.
Conciliation	This is a process leading to the resolution of the complaint by agreement between the consumer and solicitor without the need for a formal decision by the Law Society.
Conduct cases	A complaint that relates to the actions/behaviour of an individual solicitor rather than the service received by the firm of solicitors as a whole.
Counting rules	The counting rules are those agreed with the Law Society as set out in the Legal Services Ombudsman's definitions document and determine whether correspondence received from the consumer is categorised as either an enquiry or a complaint.
DCA	Department for Constitutional Affairs.
Decided	Decided cases include those which are closed by a formal adjudication; cases which do not fall within Law Society jurisdiction or are closed by caseworkers due to a lack of evidence; and cases withdrawn by the customer.
Ex-gratia payments	These are used to compensate the consumer for loss, inconvenience or distress caused by failings in the Law Society service.
LCO	Local Conciliation Officer, these are solicitors who have received complaints handling training to enable them to investigate complaints on behalf of the Law Society.
LSB	Legal Services Board.
MI	Management information.
LSO	Legal Services Ombudsman, appointed by the Lord Chancellor to oversee complaints about solicitors, barristers, legal executives, licensed conveyancers and patent agents by the six professional bodies responsible for setting and maintaining standards of conduct and service within the legal profession. The Ombudsman cannot be a qualified lawyer and is completely independent of the legal profession.
OLC	Office for Legal Complaints.
OLSCC	Office of the Legal Services Complaints Commissioner.
Temporary closures	A case file can be temporarily closed when matters outside of the Law Society control, as outlined in its procedures, are ongoing which may have a bearing on the outcome of the complaint. In these cases, once the matter is resolved, the onus is on the consumer to resume contact with the Law Society.

Appendix 1 - Commissioner's targets for the Law Society 2005-06

To support target setting in 2005-06 four strategic priorities have been identified:

Timeliness – people want their complaints resolved in a reasonable time.

Timeliness: to resolve complaints cases within	
Within	2005-06
3 months	53%
6 months	75%
9 months	85%
12 months	92%
18 months	98%
All complaints over 18 months to be referred to the Lay Panel	

Customer satisfaction – this includes impartiality, a clear process, and an effective remedy where one is appropriate.

Customer satisfaction	
2005-06 target	68%

Quality of decisions – this includes consistency, following procedures properly, and ensuring there is no unfair discrimination.

Quality of decision (using LSO's satisfaction rating)	
2005-06 target	70%

Delivery of plans – this involves a proper planning process drawing together people with the right skills, using quality systems, and delivering the intended level of performance within reasonable timescales and then sustaining it.

Note:

Since first setting her targets in September 2004, the Commissioner has reduced one of the four targets, the customer satisfaction target, from 72 per cent to 68 per cent. This was to take account of the performance base from which the Law Society is starting and in light of the representations made. The Commissioner has also reduced one part of the timeliness target, for those cases to be completed within three months, from 55 per cent to 53 per cent. This is to allow capacity for the Law Society to deal with the longer running cases.

In addition, the targets for both customer satisfaction and quality of decisions include a tolerance band. The customer satisfaction target includes a tolerance band of between 65 per cent and 68 per cent, while the quality of decisions target will include a tolerance band of between 65 per cent and 70 per cent. The Law Society must aim to achieve the targets at the level set of 68 per cent and 70 per cent respectively, but the tolerance bands are a performance range within which a penalty will not be imposed.

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