

Memorandum of Understanding between Legal Services Board (LSB) and Office for Legal Complaints (OLC)

1. This Memorandum of Understanding (MoU):
 - provides a framework for the relationship between the LSB and OLC. It reflects their independent and separate functions and aims to facilitate constructive communication, co-operation and co-ordination in the performance of their roles in the legal services market;
 - is a public document and benefits both consumers of legal services and the legal profession by setting out clearly the way in which the two bodies will interact and contribute to the efficient functioning of the statutory systems for regulation and dispute-resolution; and
 - was agreed on 17 December 2009. The LSB and OLC will monitor its operation and review and revise it at regular intervals of no more than two years.

Statutory framework

The role of LSB and OLC

2. Under the Legal Services Act 2007 ("the Act"):
 - The LSB is responsible for overseeing legal regulators in England and Wales. It is independent of Government and of the legal profession. It oversees ten separate bodies, the Approved Regulators, which themselves regulate the circa 135,000 lawyers practising throughout the jurisdiction, and is charged with acting in a way that is compatible with the eight regulatory objectives set out in the Act and which it considers most appropriate in meeting those objectives.
 - The OLC is responsible for setting up and running an independent ombudsman scheme which aims to resolve complaints between consumers of legal services and the providers of such services. It aims to do this in as quick and informal a manner as possible. In discharging its functions, the OLC must act in a way that is compatible with the objectives set out in the Act and which it considers most appropriate in meeting those objectives. It must also have regard to the principles which it considers represent best practice in ombudsman schemes.

Statutory responsibilities

3. Under the terms of the Act, the LSB has a number of responsibilities as regards the OLC. These include:
 - with the consent of the Lord Chancellor, appointing, and, if necessary, removing the OLC Chair
 - after consultation with the Chair, appointing and if necessary removing the other members of the Board;

- remunerating the OLC Chair and members of the Board; giving consent to scheme rules made by the OLC
- making rules in consultation with the OLC providing for the imposition of a levy on leviable bodies to recover leviable LSB and OLC expenditure.

4. In addition, the LSB may but is not required to :

- require the OLC to report on any aspect of its discharge of its functions;
- set performance targets, if required, for the OLC or direct such targets to be set;
- direct the OLC to take steps to modify its scheme rules in general or specific terms
- from time to time and if required, specify that the scheme rules must make provision to ensure that the OLC and Approved Regulators share information to avoid duplication of investigations and to make sure that they assist each other in their respective complaints handling and regulatory activities.

5. Under the terms of the Act, the OLC (with the consent or approval of the LSB) is responsible in particular for:

- setting an annual budget and any subsequent variations of it for approval by the Board;
- recommending to the Board a set of rules to govern the operation of the Ombudsman scheme, who can complain, about whom, and about what acts, and any subsequent changes to those rules
- Recommending to the Board and to the Lord Chancellor, the rules made under S136 of the Act in relation to the charges payable by respondents
- giving to the LSB a copy of the OLC annual report (which must include an annual report from the Ombudsman) to be passed on to the Lord Chancellor.

6. Under the terms of the Act, the OLC is responsible in particular for

- setting up and administering an ombudsman scheme to deal with consumer complaints about legal services which has regard to the best practices of ombudsman schemes;
- appointing a Chief Ombudsman and other assistant ombudsmen;
- giving to the LSB a copy of its annual accounts to be passed on to the Lord Chancellor, and Comptroller and Auditor General;

Core principles underpinning the relationship

7. The Act commits both the LSB and OLC to, so far as is reasonably practicable, act in ways which are compatible with the regulatory objectives. Whilst each organisation has an independent function, fulfilling their different roles will require a degree of working together. In practice, we expect this to mean that:

- the OLC will seek to actively gather intelligence from its work to inform the policy development activities of the LSB;

- the LSB will actively take account from the earliest stages of how its policy development activities will impact on the work of the OLC, both directly on the organisation and on the volume and nature of its workload via the effect those policies have on the market place;
 - on appropriate occasions, the organisations will undertake joint project based work in pursuit of the regulatory objectives;
 - the organisations will, where sensible, ensure effective joint or coordinated communication with the Approved Regulators, authorised persons and other stakeholders
8. To make sure that this is achieved in practice, the organisations commit to the following principles:
- **Mutual respect and trust**
The LSB and OLC start from a position of mutual respect for each other's statutory role and independence and acknowledge their shared responsibility for delivering the objectives set out in the Legal Services Act.
 - **Consultation and advice**
The LSB and OLC expect to engage early and often on any issues that may arise and which are a cause for concern in the regulation of legal services and the provision of effective dispute resolution and agree to equip each other with sufficient knowledge of respective policies, statements, positions and advice in advance of their reaching the public domain
 - **Timely and comprehensive operational arrangements**
The LSB and the OLC will cooperate in the smooth running, and periodic review, of arrangements for:
 - setting the OLC's budget, the levy and the associated case fees;
 - consulting on and making rules affecting the OLC's Ombudsman Service;
 - setting and reporting on targets for the OLC;
 - managing their relationships with the Ministry of Justice, Approved Regulators, and other key stakeholders.
 - **Information provision and confidentiality**
LSB and OLC agree to share and/or make available proportionate and up to date information of relevance to delivering the statutory objectives and to respect the confidentiality of all information.

Detailed arrangements

Budget management

9. In determining the annual budget, the LSB and OLC will agree in good time the timetable and format to be adopted in order to deliver to their mutual needs. This will involve in relation to budget setting for 2011-12 onwards

- A discussion at Board level between the OLC and LSB before the OLC budget is published for consultation;
- Informal notification of any further concerns of the LSB to the OLC during the consultation period;
- A formal decision of the OLC Board on its recommendation to the LSB in the light of that consultation;
- Final LSB Board discussion and confirmation of that budget.

Scheme rules

10. Where either body is considering seeking any change to the scheme rules, they will actively seek to consult and involve the other in that decision at the earliest possible point.

Performance monitoring and reporting

11. In approaching the monitoring of the OLC's performance by the LSB, the arrangements will be based on the following principles:
 - The primary responsibility for the performance management of the OLC will be discharged by the OLC Board.
 - The oversight of the OLC's activities by the LSB will be proportionate and focussed on identified and agreed areas of particular risk and underperformance;
 - The primary channel for formal communication to the LSB about the performance of the OLC will be the OLC Board;
 - The OLC Board will share details about the categories of performance information which it will monitor regularly with the LSB. It is anticipated that the LSB's information needs at both Board and Executive levels will be met by a sub-set of that information;
 - The LSB may request further formal information from the OLC Board in order to address particular areas of concern. Any such requests should focus on identified areas of particular policy sensitivity and operational risk. .
12. Performance targets will be set by the OLC following consultation with the LSB both about their form and content. These targets will include details of the reporting framework to be adopted. If the LSB is considering instructing the OLC to set further targets, setting any targets directly or asking for additional performance information, they will consult the OLC at the earliest possible date.

Information exchange

13. The OLC will inform the LSB of trends in relation to the content of cases and the effectiveness or otherwise of the complaints handling arrangements put in place by individual Approved Regulators or, in exceptional circumstances, of individual cases (suitably anonymised as required) that appear likely to have significant regulatory implications, which the LSB will then evaluate and consider whether any LSB action is required.
14. The LSB will alert the OLC about any changes it perceives in the legal services market and any specific regulatory issues or changes which may impact on the complaints-

handling environment. The LSB will consult the OLC about any actions it may take which may have such impacts.

15. Any information-sharing between the two organisations is subject to relevant restrictions on disclosure of confidential information:
 - So long as it has regard to any rights of privacy, the OLC may disclose information to the LSB for the purpose of assisting either party to discharge its functions;
 - Similarly, the LSB may disclose confidential information to the OLC for the purpose of assisting either party to discharge its functions.

16. The Boards of the LSB and the OLC will normally make available to each other respective Board papers, with the exception of those that concern the relationship between the two bodies directly and which respective chairs determine should not be shared. The papers will be made available at the time the minutes of the relevant meetings are agreed ie following Board discussion and decision on those papers. With the agreement of the respective chairs, individual papers may be shared earlier where this is appropriate. More generally, CEOs of each organisation will ensure that their respective Board is apprised of key issues relating to the other.

Keeping in touch

17. The CEOs of the LSB and OLC will meet on a regular basis, no less than monthly, to discuss issues of common interest.

18. In addition to meeting together formally on a quarterly basis, the Chair of the OLC will attend Board meetings of the LSB at appropriate stages in the business cycle and also at least once a year for a more general discussion of emerging trends and issues, and the Chair of the LSB will attend Board meetings of the OLC at least twice-yearly on a similar basis

19. In addition, the Chair of the LSB will conduct a formal annual appraisal of the Chair of the OLC.

Signed:



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David Edmonds, LSB Chairman



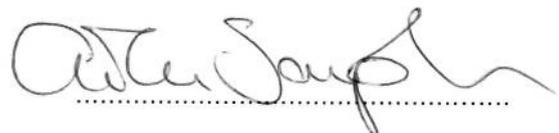
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Elizabeth France, OLC Chair



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Chris Kenny, LSB CEO



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Adam Sampson, OLC CEO