

# Memorandum of Understanding

## between

### Legal Services Board (LSB) and Office for Legal Complaints (OLC)

1. This Memorandum of Understanding (MoU) aims to facilitate constructive communication, co-operation and co-ordination between the LSB and the OLC as they carry out their respective statutory roles. The LSB and OLC are independent of each other, of the legal profession, and of Government.
2. This is a public document and aims to benefit both consumers and providers of legal services (and claims management companies (CMCs)) by setting out how the two bodies will interact and contribute to the efficient functioning of the statutory systems for legal services regulation and dispute-resolution.
3. It should be read alongside the Tripartite Operating Protocol<sup>1</sup> between the LSB, OLC and Ministry of Justice (MoJ) which describes in more detail how the three bodies work together to discharge their respective responsibilities as regards the OLC.

### Statutory framework

#### The role of LSB and OLC

4. The Legal Services Act 2007 ("the Act") describes the statutory responsibilities of the LSB and the OLC:
  - The LSB is responsible for overseeing legal regulation in England and Wales. It oversees nine separate bodies, the approved regulators, which themselves regulate directly lawyers and legal businesses practising throughout the jurisdiction. The LSB 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 Act also gives the LSB functions, powers and duties with regard to the OLC and the Solicitors Disciplinary Tribunal (SDT).
  - The OLC is responsible for setting up and running an independent ombudsman scheme, which aims to resolve complaints between consumers of legal services and CMCs 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

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[http://www.legalservicesboard.org.uk/about\\_us/office\\_for\\_legal\\_complaints/olc\\_board/pdf/2017/171506\\_Tripartite\\_Agreement\\_LSB\\_MoJ\\_OLC.pdf](http://www.legalservicesboard.org.uk/about_us/office_for_legal_complaints/olc_board/pdf/2017/171506_Tripartite_Agreement_LSB_MoJ_OLC.pdf)

objectives. It must also have regard to the principles, which it considers represent best practice in ombudsman schemes.

### **Statutory responsibilities**

5. 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 OLC 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.

6. 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 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
- 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.

7. 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; and

8. Under the terms of the Act, the OLC is responsible for:

- setting up and administering an ombudsman scheme to deal with consumer complaints about legal services and CMCs which has regard to the best practices of ombudsman schemes;
- appointing a Chief Ombudsman and other assistant ombudsmen; and

- giving to the LSB a copy of its annual accounts to be passed on to the Lord Chancellor, and Comptroller and Auditor General and a copy of the OLC annual report (which must include an annual report from the Ombudsman) to be passed on to the Lord Chancellor.
9. The Tripartite Operating Protocol provides more detail about how many of these activities happen in practice.

### **How we will work together**

10. The LSB and OLC both act in ways that are compatible with the regulatory objectives of the Legal Services Act 2007, so far as is reasonably practicable. Whilst each organisation must fulfil their statutory functions independently, both bodies agree that we can deliver a greater impact on the sector by working together effectively in appropriate areas. By signing the Tripartite Operating Protocol, LSB and OLC have already committed to working in line with the general good governance principles of: Purpose; Assurance; Value; and Engagement<sup>2</sup>.

11. In practice, we expect this to mean that:

- the OLC will help to inform the policy development activities of the LSB by actively gathering and sharing intelligence from its work;
- the LSB will take account 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;
- the organisations will undertake joint project based work in pursuit of the regulatory objectives, where appropriate;
- the organisations will ensure effective joint or coordinated communication with the approved regulators, authorised persons and other stakeholders, where appropriate.

12. When working together, both organisations commit to:

- **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.
- **Effective engagement**  
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.

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<sup>2</sup> As articulated in 'Partnerships between Departments and Arm's-Length Bodies: Code of Practice'

- **Proportionality and effective use of resources**  
When working together, the LSB and OLC will make sure to reflect on how best to use their respective resources efficiently and effectively and in proportion to the issue being addressed.
- **Openness and confidentiality**  
The LSB and OLC agree to share and/or make available proportionate and up to date information which is of relevance to each body's delivery of its respective statutory obligations and to respect the confidentiality of all information shared. In particular:
  - 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. In exceptional circumstances, the OLC will alert the LSB to individual cases (suitably anonymised as required) that appear likely to have significant regulatory implications. The LSB will take care to treat any information provided with care
  - The LSB will alert the OLC to 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 is considering taking which may have such impacts.
  - Any information-sharing between the two organisations is subject to relevant statutory 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.
  - The Boards of the LSB and the OLC will 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 shared at the point of distribution to respective Boards in advance of meetings.
  - The CEOs of each organisation will ensure that their respective Board is kept informed about key issues relating to the other

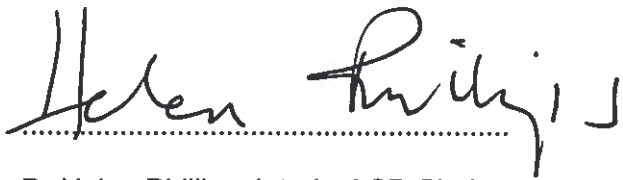
### **Keeping in touch**

13. The CEOs of the LSB and OLC will meet on a regular basis, to discuss issues of common interest.
14. 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

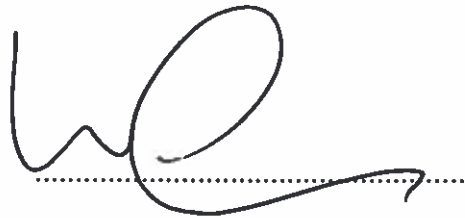
Chair of the LSB will attend Board meetings of the OLC at least twice-yearly on a similar basis. The Chairs may be accompanied by other colleagues at any of these, or other, scheduled meetings

15. In addition, the Chair of the LSB will conduct a formal annual appraisal of the Chair of the OLC against objectives that are agreed each year.
16. This document was agreed on **11 October 2017**. The LSB and OLC will monitor its operation and review and revise it at regular intervals of no more than two years

Signed:



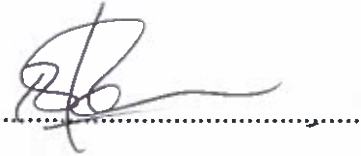
Dr Helen Phillips, Interim LSB Chair



Wanda Goldwag, OLC Chair



Neil Buckley, LSB CEO



Rob Powell, OLC CEO

