LEGAL SERVICES BOARD

Meeting: Legal Services Board

Date: 26 November 2024

Item: Paper (24) 53

Title: OLC/LeO Draft Budget 2025/26

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Status: Official

Purpose of the paper

1. This paper sets out the OLC's proposed budget and business plan for 2025/26 and provides (**Annex A**) the OLC's analysis of how these fit the draft budget acceptance criteria.

2. The OLC will submit a final budget and business plan for 2025/26 for the Board's approval in March 2025, so no decision is required today. Rather, the purpose of this discussion is to agree any changes to the budget acceptance criteria and signal any concerns about the direction of travel in general, so that the OLC provides all of the information the Board needs to support its decision in March.

3. OLC representatives will be in attendance at the Board meeting to provide additional clarity and assurance as required and have been provided with a copy of this board paper in advance.

Recommendation

4. The Board is invited to:

   a) **discuss** the OLC's budget proposals and identify any concerns or areas it would like further assurance on; and,
   b) **approve** the draft budget acceptance criteria. While no further changes to the criteria are proposed, if the Board wishes to seek changes, it is invited to **agree** that the LSB Chair and Chief Executive finalise the criteria.

Background

5. In accordance with the Legal Services Act 2007 (the Act), the OLC must adopt an annual budget that has been approved by the LSB Board (see schedule 15 paragraph 23 of the Act) before the beginning of the financial year. The Board is aware that the OLC is funded by a levy on approved regulators, which must be approved by the Lord Chancellor.

6. On 29 October, the OLC shared a paper (**Annex A)** that sets out how its draft budget proposals meet the draft acceptance criteria. The criteria in isolation are provided at **Annex C**. The OLC/LeO is currently consulting on its draft business plan and budget.

Draft budget acceptance criteria

7. Under the terms of the LSB-OLC-MoJ Tripartite Operating Protocol (the "Protocol") are required to issue draft budget acceptance criteria to the OLC in August each year and this was considered at the July Board meeting. The purpose of the criteria is to ensure that the Board has all the information it needs to make an informed decision on whether to approve the OLC's proposed budget.

8. At the July Board meeting amendments were requested to the draft criteria and these were provided to the OLC on 21 August 2024. The main changes were:

    - a new requirement to improve demand forecasting (**Annex C** - paragraph 2);
    - a new requirement to include analysis of the budget & business plan in the context of OLC/LeO's Strategy (**Annex C** - paragraph 3); and,
    - clarifying that business plans, and not just the budget, might change following consultation (**Annex C** – paragraph 7).

LeO's Current Performance and Challenges

9. From 2021/22 to 2022/23 the number of new customer complaints brought to LeO rose from approximately 6,400 to more than 9,400 - a 47% increase. Similar volumes were received in 2023/24 and projected for 2024/25 and 2025/26. In 2023/24, having anticipated a 10% reduction in new customer complaints due to changes to Scheme Rule time limits, complaints actually increased by 0.8%.

10. Growth in underlying demand has translated into a nearly 27% increase in complaints (around 1,600 cases) that require early resolution or investigation (LeO's core demand) since 2019/20.

11. The biggest shift this business year has been in demand for investigations – cases which demand significantly higher levels of resource and make up the unallocated investigations queue – these were forecasted to be 3,450 in Q1&2 but have risen to 4,050 – 4,250 cases.

12. Despite a challenging demand context, LeO has continued the success of its early resolution measures and resolves 44.2% of cases within 90 days (average of 48 days). However, the demand challenges described above mean that - at the end of Q2 in 2024, the queue stands at 3,433 unallocated investigations, which is only fractionally lower than the same point last year (3,565), and is higher than LeO's higher forecast for the end of Q2 in 2024 (3,185).

13. In October 2024, people being assigned to an investigator had been waiting for 358 days on average. Once allocated to an investigator the average wait for an

outcome is a little over five months (160 days) but the range is wide. This means that overall journey times (the total time spent in the queue and for any subsequent investigation) for many consumers is still significant. Of all cases closed by LeO in Q2 of 2024/25: 23.1% had taken longer than 540 days to resolve and 5.75% took longer than 720 days.

14. There are limits to what LeO can do to address this demand in the short-term. The budget proposes allocating some resource to supporting learning in the sector and therefore reducing demand, but this will take time to have an effect and should be considered a medium to long-term lever.

Key elements of the OLC's budget proposals

15. The higher demand for LeO's services means that the spare operational capacity created by increased productivity/efficiencies in recent years has instead been absorbed by this additional demand. In LeO's view, it is unlikely it will be able to make any meaningful impact on the backlog in the queue without additional resource. The OLC proposes a significant increase in investigator resources (a further 21.7FTE) to meaningfully reduce its queue of cases.

16. The OLC has proposed a budget of £19.78million, an increase of 10.2% compared with 2024/25:

    - 52.4% of the increase relates to new investigator resource of 21.7FTE and 1.9 FTE investigation team leaders (see also paras 22-24 below).
    - 32.6% relates to an anticipated pay award of 4%.
    - 14.1% relates to non-discretionary or unavoidable costs including a provision of £90,000 for bad debts relating to firm closures where LeO cannot recover its case fees.

17. Of the proposed new investigator resource, 14% (3FTE equivalent) is proposed to be directed to support the delivery of targeted learning and insight to the legal sector, helping to reduce demand at source in the medium-long term.

18. The OLC has also provided an optional, additional transparency budget provision of £435,872 to enable LeO to progress plans to publish full ombudsman decisions. This would bring the total 2025/26 budget to £20,220,092 - a 12.7% increase on 2024/25. The OLC estimates that this initiative will cost a further £350k on a recurring annual basis (see also paragraphs 28-29 below). The full proposal is on pages 20- 23 of **Annex B**.

19. The OLC is proposing future changes to its case fee beyond next year. The case fee is a flat fee of £400, charged to providers where complaints are resolved in the consumer's favour and where LeO assesses that the service provider did not take reasonable steps to resolve the complaint. It has not changed since 2010.

20. Through its current consultation LeO is seeking views on a scoping basis about two potential changes: an increase in the case fee to £800 for all cases where the criteria are met; and a potential higher fee of £1,000 in circumstances where an ombudsman decision is required and / or where a provider has exceeded a specified threshold of complaints (a "polluter pays" model).

21. LeO would need to consult separately on these changes, amend its Scheme Rules and obtain the approval of the Lord Chancellor before they could be implemented, and no actual changes are likely before 2026/27 at the earliest.

OLC / LeO's near-term and longer-term forecasting

22. The OLC states that with a further 21.7 FTE investigators, LeO will have additional capacity to resolve complaints and improve customer experience, as well as to adopt a longer-term "invest to save" approach towards innovations and learnings. The OLC states it would also develop insight interventions to deliver further efficiencies in the medium to long term, while also delivering meaningful reductions in unallocated investigations throughout 2025/26.

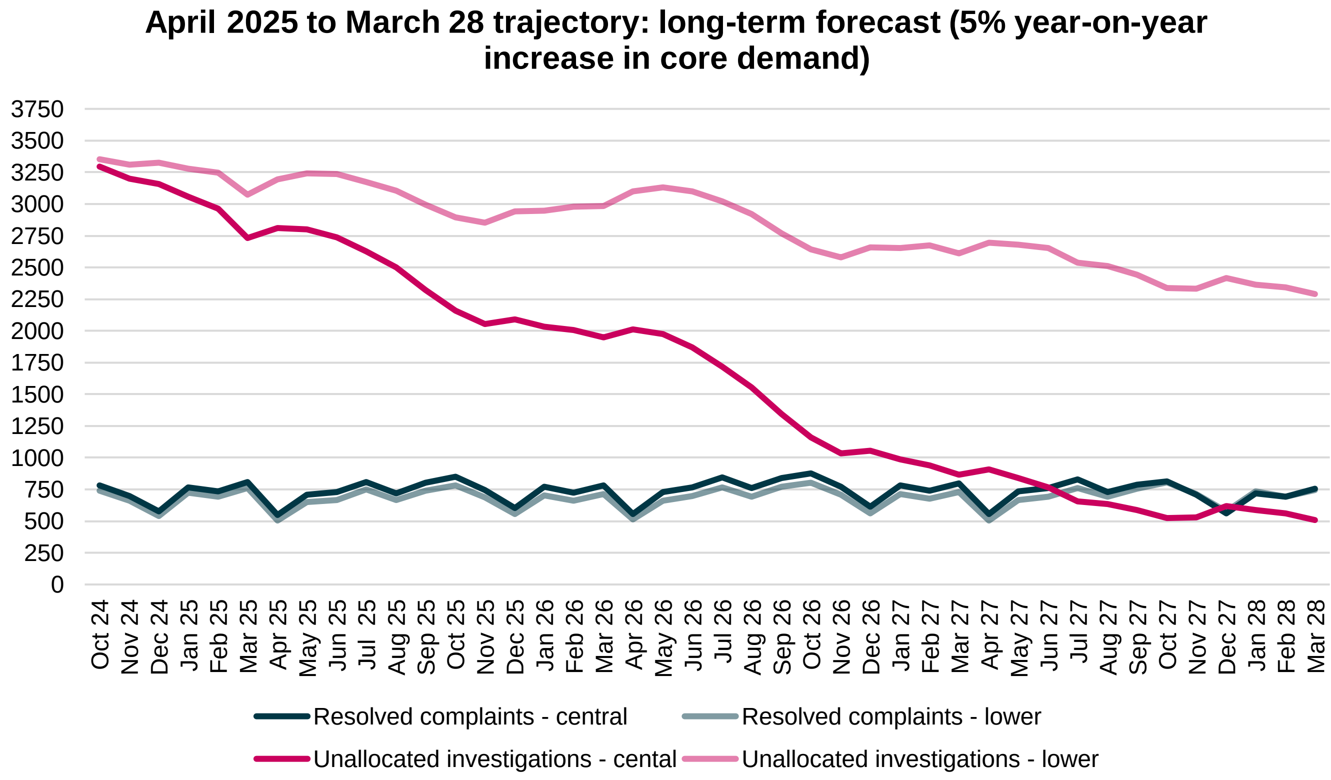
23. Without an investment in new investigators, LeO would still be able to resolve a high number of complaints (more than 8,000) but the queue of unallocated investigations would fall only marginally over the course of the budget year due to increased demand. In turn, there would be a minimal reduction in waiting times for those complainants requiring an investigation.

24. The graph below illustrates the impact of the requested increase in resource against highest and lowest demand scenarios in terms of people waiting in the queue. The OLC caveat this forecasting due to the challenges of projecting future demand and limited data regarding potential changes in the quality of tier-one complaints handling. The graph shows:

    - If demand ***increases at a similar rate*** as the last two years (at 5% per year), then the additional investigator resource would lead to a queue of fewer than 1000 cases and reduced wait times by the end of 2026/27 (central scenario). In this scenario, by 2027/28 (beyond the current strategy period), LeO states it would not need to replace investigators leaving the service, but could undergo a managed decrease of investigation resource and budget through attrition.

    - If demand ***remains static*** in 2025/26 at the levels seen in 2024/25, LeO would reach that position slightly earlier, by Q3 of 2026/27.

    - In a ***worst case scenario***, (10% demand increase), LeO could still cover incoming demand, but the queue would fall very slowly, leaving a substantial queue of over 2,000 complaints at the end of 2027/28.



Strategy and Business Plan (Annex B)

25. LeO's Strategy for 2024-2027 sets out an intention to deliver two objectives in order to achieve their vision of becoming a leading and trusted Ombudsman scheme where every complaint helps drive better legal services:

***Obj 1** - Resolving complaints fairly and effectively, providing an excellent customer experience (see **Annex B** p24-26 for further detail)*

26. The OLC expects LeO to respond to 120,000 contacts, receive 9,700 new customer complaints, take on 7,500 complaints for early resolution or investigation, and resolve 8,800 complaints. It commits to a wide range of initiatives to improve the investigations process, including to research, develop and test AI solutions, and developing and consulting on changes to case fee levels and structure in order to offset spend in the future.

***Obj 2** - LeO's independent voice and experience leads to improvements in legal services (see **Annex B** p27-29)*

27. Key activities include strengthening strategic engagement with legal services regulators to drive a culture of excellence and sharing insight and information on improving complaints handling.

28. It includes a commitment to develop a viable pathway towards delivering meaningful transparency of Ombudsmen's decisions, (on the basis of the outcomes of the transparency proposal set out at paragraph 18, above). This is

in response to the LSB's request in its Budget Approval Letter this year, that LeO should plot a course to publishing its decisions.

29. The proposal (in a letter from the OLC Chair) was included in the LSB's September 2024 Board papers. The Board noted the potential significant costs and was keen to understand whether progress towards this objective might be achieved in a more incremental way. We understand that some ombudsman schemes have taken a phased approach to publishing all decisions and that LeO is an outlier in terms of not publishing.

30. The OLC's view is that, as LeO operates in the private sector, the publication of only some complaints would not be possible due to the potential impacts. Board members may explore this point further, and the overall proposal, in the context of the meeting.

Conclusions

31. Although an uplift in demand was becoming visible last year, this year's budget and business plan present a different operational picture compared to recent years.

32. The OLC has been clear about the need for additional resource and provided modelling for a central scenario showing how it can meet demand and continue to make progress in reducing the queue, even if demand rises by 5% each year. However, it also acknowledges the challenges of making longer-term casework demand predictions and presents a more pessimistic higher-demand scenario where far less progress would be made.

33. We agree that there is a need for LeO to take further action to make progress on its queue in the face of increasing demand and a key consideration for the Board is how OLC/LeO propose to tread a course between the pace of progress on the queue and diverting focus onto actions to reduce future demand. The Board may also wish to explore further:

- the nature and challenges of the forecasting and to what extent the additional resource is needed only to make progress on the queue and whether that resource might in fact be essential in the worst-case demand scenarios;

34. what impact the increase to a further 21.7FTE would make in different scenarios;

- how the OLC plans to closely monitor and hold LeO to account for performance against its forecasting and what corrective actions might be taken in the face of significant performance variance.

35. In last year's Business Plan LeO committed to assign 4FTE to deliver insights work and proposes that 14% / 3FTE of the proposed new investigator resource also be allocated to the delivery of learning and insight to the sector. Work on this has begun and Board members may wish to explore what specific outputs have been achieved and what more is envisaged. It may also be useful to explore to what extent those initiatives as well as a lean process review, AI, customer service improvements and first-tier complaints initiatives are expected

to prevent new complaints and manage demand. We recognise that there is a role for regulators in delivering initiatives to improve first-tier complaints handling, however it is important for LeO to clearly articulate what they need from the regulated community.

36. At the late stages of the preparation of this paper it became clear that OLC / LeO are highly likely to be subject to the upcoming increase in Employer's National Insurance Contributions. This increase is not included in their current budget. Working level conversations are ongoing to establish the amount and likely impact of this increase on the OLC / LeO. We hope that more will be known by the time of the Board meeting.

37. We note that the budget does not currently appear to include a vacancy factor, which may present the opportunity for costs savings and the level of the pay award is also not yet final.

38. Finally we note that attrition whilst improved continues to be a risk and that sickness absence levels are high. It would be worth exploring what impact these factors might have on achieving LeO's desired outcomes.

Next steps

39. When considering approval of the budget in March, the Board will take account of all of the information provided by the OLC, including its budget proposals in the context of the OLC's current and projected performance, as well as stakeholder feedback on the OLC's consultation. The Board's overriding responsibility will be to provide the OLC with sufficient resources to perform its statutory functions to an adequate standard.

40. The budget acceptance criteria should be finalised shortly after the Board meeting. Given that they were examined carefully in July no further changes are proposed, but should the Board wish to make changes, it is proposed that the Chair and Chief Executive approve the final criteria.

41. The OLC commenced its formal external consultation on its 2025/26 business plan and budget on 31 October and this will run until 13 December. It will provide its final budget submission to the LSB in February, for Board consideration at its March meeting.

42. Next year the LSB Executive intends to propose a more concise approach to the budget acceptance criteria to improve the LSB's ability to assure the proposals.

Annexes

Annex A – OLC submission on how it meets draft budget acceptance criteria
Annex B – OLC / LeO Draft Budget and Business Plan
Annex C – Draft Budget Acceptance Criteria (Clean)

Risks and mitigations	
Financial:	The OLC is consulting on its new business plan and budget for 2025/26 and will need to demonstrate that it will have sufficient resources to deliver against its business plan.

Legal:	This paper is prepared to support the Board's remit under paragraph 23(1) of Schedule 15 to the Act to consider and approve the OLC's proposed Budget, by (i) providing the Board with an opportunity to exercise its discretion to revise the budget acceptance criteria, as provided for in paragraph 6.7 of the Protocol and (ii) raise and communicate concerns around the OLC's budget proposals.
Comms and engagement:	There is significant interest in the Legal Ombudsman's performance and it will be important to see the full range of considered responses to the OLC's consultation in due course.
Equality and diversity:	See pages 52-54 of Annex A.
Resource:	N/A
Environmental:	N/A

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
None	N/A	N/A