



Legal Services
Complaints
Commissioner

OPPORTUNITY FOR EXCELLENCE

Legal Services Complaints Commissioner
ANNUAL REPORT AND ACCOUNTS 2008/09

Legal Services Complaints Commissioner

Annual Report and Accounts

2008/09

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

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Office of the Legal Services Complaints Commissioner

Statement of Purpose

The Office of the Legal Services Complaints Commissioner works with the Law Society, on behalf of consumers, to improve the way it handles complaints about solicitors in England and Wales. It is an associate office of the Ministry of Justice. The Legal Services Complaints Commissioner is Zahida Manzoor CBE. She was first appointed in 2004. She holds the position as Commissioner concurrently with that of Legal Services Ombudsman for England and Wales.

Our mission is to:

- regulate the Law Society, to ensure that it handles complaints about its members effectively and efficiently, providing consumers with a fair and prompt quality service
- positively influence and support the Law Society, and to work fairly, openly and honestly with it and all our stakeholders.

Our vision is to:

- secure a Law Society complaints process that provides a fair and prompt quality service to the consumers of legal services; and
- be an organisation that consumers, stakeholders and our staff can have confidence in and be proud of.

Our strategy includes:

- working in partnership with the Law Society;
- committing to evidence based analysis and feedback;
- operating within the Better Regulation Executive principles;
- ensuring transparency, openness and impartiality;
- building improvements in our own performance;
- fostering open and honest communication; and
- providing value for money.



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Commissioner's Foreword



Commissioner's Foreword

We have reached a pivotal time for legal services reform. The new organisations created by the Legal Services Act 2007 are beginning to take shape and the work being commenced now will have far-reaching consequences for future consumers of legal services – including those who will require a resolution if they complain about the service they receive. I look forward to working with the Chair and Chief Executive of the Legal Services Board (LSB) and the Chair and newly appointed Chief Ombudsman of the Office for Legal Complaints (OLC) as they develop their organisations.

Against this backdrop of change, I am pleased to present to you my Annual Report and Accounts for the financial year 2008/09.


My work during this past year with the Law Society and its complaints handling bodies - Legal Complaints Service (LCS) and Solicitors Regulation Authority (SRA) - has altered emphasis to reflect that we are on the brink of these momentous changes. Importantly, the work going forward for 2009/10 will reflect the improved state of the complaints system and will concentrate on maintaining standards at an acceptable level for the consumer while the new complaints body (the OLC) establishes itself.

Relationships between regulators and regulated bodies can be tested sometimes, but the Law Society and its complaint handling arms continue to work professionally and productively with me as their complaints handling regulator. It is now five years on from my appointment and the results speak for themselves – in every area for which, as Commissioner, I set targets for improved performance by the Law Society, improvements have been made.

Aspirations for the new OLC are high – this is justified as the system it replaces has now turned a corner in its performance. Many issues we have faced on this journey towards a successful outcome are now firmly in the past. The new system of legal regulation will ensure a split between representative and regulatory functions in the legal professional bodies. Complaints will be handled by an independent body able to strive for excellence from the outset. However, I believe the lessons learned whilst improving the current complaints handling body for solicitors are valuable for the future and should not be lost in transition.

The results I report for LCS and SRA for 2008/09 demonstrate steady improvement overall – testament to the hard work, dedication and focus exhibited by those organisations working closely with my own Office. This is a real success story for everyone involved: the Law Society, LCS, SRA, the Ministry of Justice (MoJ), consumers and the profession which are all experiencing the benefits of improved performance standards.

This year there has also been substantial behind the scenes work, dialogue and negotiation – always keeping the needs of the consumer at the forefront. It was with great disappointment earlier this year that I declared the complaints handling plan submitted by LCS to be inadequate and subsequently imposed a penalty on the Law Society. However, I



am pleased that a resolution was eventually reached with the Law Society. It is ploughing a substantial sum (£275,000) into a range of client care measures that we were able to agree and jointly announce in March 2009.

I hope that these measures will make a long-lasting impact by equipping the profession now and in the future with the tools to “get it right first time” more often for more consumers. This kind of innovative solution is right for the times and enables us all to focus on the future and move forward in terms of developing and improving the system for all who operate within it. This is just the start, as the Law Society has pledged its commitment to this initiative and I hope it will continue to build on the good work it has started for future years and deliver long-term benefits to standards within the profession.

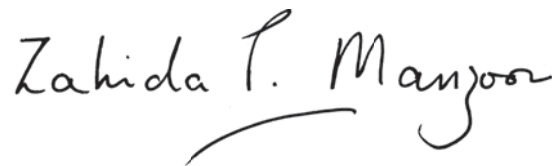
It has been another successful year for my Office. Again we have received validation of our systems and management from both external stakeholders and our sponsoring Department, the MoJ. We have responded to a number of consultations including SRA’s draft Equality and Diversity Strategy following the findings within Lord Herman Ouseley’s report. I have also taken the opportunity to promote diversity in the legal profession wherever possible, including at the Leeds Law School Inaugural Guest Lecture where I was invited to address the audience on this subject.

Recognition for the Office is pleasing, particularly as staff contemplate the ending of our role in March 2010. This year, in addition to “business as usual” I have, with the MoJ, been working closely with my staff to help them plan their future careers. I am proud of their continued dedication to their work to improve complaints handling throughout this challenging time.

I am pleased to have been re-appointed to the post of both Commissioner and Legal Services Ombudsman in order to provide reassurance to consumers during transition to the new complaints handling body. During this next phase, I will be closely monitoring LCS performance against targets I have set and recommendations I have made which reflect priorities of the Secretary of State for Justice and Lord Chancellor and the Ministry of Justice. This year’s Annual Report is the final comprehensive report I will make of the Law Society’s complaints handling performance under the full range of powers available to me under the Access to Justice Act 1999.

As ever, I must thank you – the wide range of stakeholders who support the work of my Office. In particular, I am grateful to my Advisory and Consumer Board, the members of which have generously contributed their valuable time and considerable expertise to enhance our work again this year.

I look forward to a further year as Commissioner working within a legal system that is, quite rightly, aspiring to excellence.



Zahida Manzoor CBE

Legal Services Complaints Commissioner

Date: 24 June 2009

Executive Summary



Setting the Scene

Background

The Commissioner, Zahida Manzoor CBE, welcomed the passing of the Legal Services Act 2007 in October 2007. It introduced a new Legal Services Board (LSB) to provide oversight regulation for the whole of the legal profession and established a new and independent Office for Legal Complaints (OLC).

The impact of the reforms means that once the LSB and OLC become fully operational the professional bodies' own arrangements for handling complaints will cease and the current oversight arrangements, including the Office of the Legal Services Complaints Commissioner (OLSCC), will no longer be required.

On 18 June 2008 the Parliamentary Under-Secretary of State for Justice, Bridget Prentice, announced that the LSB is expected to become fully operational in early 2010 and the OLC to become fully operational during 2010. In light of these changes the Commissioner's Office will close in March 2010.

It is a mark of the success story and the extent of the turnaround in the handling of complaints about solicitors, that Government can move forward to establishing the new OLC with far fewer concerns about legal complaints than before the Commissioner was appointed. Although OLSCC is entering the final phase of its work, it is in place to ensure that standards in complaints handling by the Law Society of England and Wales are maintained at this critical time.

The Commissioner's Role and Powers

The Commissioner's powers, which are set out in the Access to Justice Act 1999, include setting targets for complaint handling, making recommendations and requiring the Law Society to submit a plan for the handling of complaints about its members. In addition, the Commissioner also has the power to levy a penalty on the Law Society if it fails to deliver an adequate plan or if it fails to handle complaints in accordance with that plan.

The Commissioner and the Law Society have worked closely to improve the standard of complaints handling each year. The setting of suitable targets for the Law Society and the production, by it, of an appropriate plan for complaints handling, form the cornerstones of improvement.

The Law Society's 2008/09 Improvement Plan

In February 2008 the Commissioner formally set the Law Society its targets for the period 1 April 2008 to 31 March 2009. In March 2008 the Law Society submitted an Improvement Plan. The Commissioner considered that the Plan presented was inadequate for securing effective and efficient complaints handling, and as a result posed a significant risk for those expecting and dependent on seeing improvements in the service offered by LCS. After considering representations from the Law Society, LCS and SRA, she announced her decision to impose a penalty of £275,000 in respect of this plan.

Both the Commissioner and the Law Society felt that the penalty sum should be used in a way that would benefit consumers and the profession. They worked together to reach a solution. The Law Society agreed to invest a sum equivalent to the penalty in a range of client care measures designed to boost capability and capacity in the legal profession. This was a very successful outcome for the consumer and the profession.

The Commissioner and Law Society were able to jointly announce their agreement on 4 March 2009. The four key elements of the agreed Client Care Programme of the Law Society are:

- a free consultancy service to be provided by the Law Society to those firms which generate multiple complaints;
- a dedicated complaints and client care helpline;
- an increased contribution towards the funding of the Diversity Access Scheme to enable disadvantaged individuals to become solicitors; and

- the creation of a new client care project manager post to lead the project team responsible for this within the Law Society.

The Commissioner is pleased that as implementation of the Legal Services Act 2007 moves forward, she has been able to secure commitment from the Law Society to investment that will have long term benefits to standards of client care.

The Commissioner's Targets and the Law Society's Performance for 2008/09

The Commissioner's Targets

Each year the Commissioner identifies specific performance targets which steer the Law Society towards the delivery of an effective and efficient service. Monitoring the Law Society's performance against these targets enables the Commissioner to independently verify the level of improvement made each year.

The Commissioner's key priorities for improving complaints handling for the consumer and the profession in 2008/09 focused on improving the quality of decisions made by the Law Society and its efficiency whilst further improving and sustaining the time it takes to handle complaints. Four strategic priorities, each of equal importance, were identified by the Commissioner. These were:

- having a complaint handled in a timely manner;
- achieving a fair outcome for both the complainant and the solicitor through improved decision making so that the outcome is consistent and accurate;
- achieving value for money through realising clear and measurable benefits from implementation of change/improvement initiatives; and

- improving cost efficiency to the handling of complaints.

The quality target set by the Commissioner for the period 1 April 2008 to 31 March 2009 was designed to increase the number of consumers who receive a fair, consistent and reasonable outcome to their complaint, and to demonstrate impartiality in the services provided by LCS and SRA.

The remainder of the Commissioner's targets concentrated on:

- eliminating the number of cases over 12 months old;
- reducing the time taken by LCS to make referrals to SRA;
- reducing the time it takes SRA to refer cases to the Solicitors Disciplinary Tribunal;
- increasing the productivity of SRA caseworkers;
- increasing the proportion of cases referred to the Legal Services Ombudsman (LSO) in which the LSO upholds the handling of the complaint by LCS caseworker;
- achieving a reduction in the average unit cost per LCS complaint; and
- achieving initiatives to support delivery.

On 11 June 2008, the Commissioner set LCS an additional target relating to the handling of Coal Health Compensation cases. This target assessed the quality of LCS caseworker investigation in miners' complaints and came into effect from 1 July 2008.

The Law Society's Performance for 2008-09

Overall, results show that LCS has, at the end of the 2008/09 plan year, met seven targets and missed one target, and SRA has met five targets and missed one target.

The steady improvement made by both LCS and SRA is pleasing for the Commissioner who has consistently set stretching but achievable targets for both organisations to ensure complaints are being handled more effectively and efficiently.

Executive Summary

Overall Summary of LCS and SRA Performance for 2008/09

Target Area	2008/09 Performance	
	LCS	SRA
T1 and T3 Timeliness Target 12 month closures	MET	MET
T2 Timeliness Target Referrals to SRA	MET	NO TARGET SET
T4 Timeliness Target Referrals to SDT	NO TARGET SET	MET
Q1 and Q2 Outcome of Decisions Target - Fair & Reasonable Outcome	MET	NOT MET
Q3 LSO Satisfaction Rating Target LSO findings	NOT MET	NO TARGET SET
P1 Plan Target Priority Initiatives	MET	MET
P2 Plan Target Equality & Diversity	MET	MET
C1 Cost Efficiency Target Unit Costs	MET	MET
M1 CHC Target Miners' cases	MET	NO TARGET SET

In particular, the reduction in the number of cases over 12 months old has been a key achievement for the Commissioner who, by actively targeting LCS and SRA performance in this area, has helped ensure improvements in the speed a complaint is concluded for both the consumer and the profession.

The Commissioner was also pleased with the improvement in the quality of complaints handling provided by LCS to its consumers since she began measuring this aspect in June 2007. LCS achieved 95% against the Commissioner's target of 90% meaning that each consumer that makes a complaint to LCS about the poor service they received from their solicitor is now likely to have a more consistent overall experience than they did before.


The Commissioner was also pleased with LCS's results for the Miners' Target, which at 97% against the Commissioner's target of 93% shows that the

LCS has responded positively to the findings in the Commissioner's Special Report about the handling of Coal Health Compensation Scheme complaints.

The Year Ahead

In February 2009, the Secretary of State for Justice and Lord Chancellor announced the further re-appointment of Zahida Manzoor CBE as Legal Services Complaints Commissioner until 2 April 2010.

The re-appointment of the Commissioner will run until the closure of OLSCC on 31 March 2010. It is anticipated that the LSB will be fully operational by this date. The continuation of the Commissioner's role until this time will help to ensure that consumer rights are protected during the transition period for the full implementation of the Legal Services Act 2007.



The Secretary of State and Lord Chancellor has also from 1 April 2009 amended the powers of the Legal Services Complaints Commissioner. The new powers are aligned with the Government's priorities for LCS as it heads towards closure and in the months leading up to full implementation of the OLC. This change will enable the Commissioner to provide a continuing oversight of the Law Society's complaints handling to ensure there is no decline in standards of performance before the new independent OLC becomes fully operational.

The Commissioner recognises, however, that implementing transitional change can be more challenging than completing 'business as usual' activities. In recognition of this, and in order to ensure there is no deterioration in standards for consumers at what is a critical stage for the Law Society, the Commissioner has set, for 2009, a number of key targets and made recommendations to the Law Society to maintain the performance that has been achieved by LCS and SRA in specific areas.

The targets and recommendations set by the Commissioner apply a balanced approach to the work of the Law Society and one which fits with the Law Society, LCS and SRA complaint handling agendas for improvement for 2009. The targets for LCS have been specifically chosen to:

- encourage as many cases as possible to be satisfactorily resolved within 6 months;
- ensure that there are no cases over 12 months old, apart from in exceptional circumstances; and
- help LCS improve work in progress levels.

Although the Commissioner did not set any targets for SRA she has recommended that the Law Society encourages it to aim to investigate and conclude, prepare fully and lodge with the Solicitors Disciplinary Tribunal, all cases within 12 months.

Both LCS and SRA have shown steady year on year improvement since the Commissioner was appointed and began setting targets for the Law Society. The Commissioner believes there is now a strong

platform in performance from which the OLC can build and take the opportunity to aim for excellence, but there is no room for complacency and further improvements by LCS and SRA could and should be made.

The Commissioner's Audit Findings

OLSCC has conducted independent audits and investigations as part of its mandate to assure the Commissioner that performance improvement is being made in the handling of consumer complaints.

The audits undertaken in 2008/09 were:

- LCS Coal Health Compensation Scheme Audit;
- LCS Quality Indicative Target Audit;
- LCS Quality Year End Target Audit; and
- SRA Coal Health Compensation Audit.

Many of these audits were required to assess the level of performance of LCS and SRA against the targets set for them by the Commissioner.

Activity of the Commissioner's Office

OLSCC has again delivered a high standard of business and customer service. Despite uncertainty for their futures, staff have continued to maintain their high standards of delivery.

The organisation has provided good value for money through effective management and has delivered year on year improvement in the Law Society's complaints handling performance, while reducing its overall resources and costs.

1 Setting the Scene

Background

Complaints about the legal profession – in particular solicitors – were seen as a growing problem affecting complainants, drawing the attention of consumer groups and being discussed in Parliament. The worsening backlogs and ineffective solutions to poor complaints handling about solicitors were also putting strain on the profession’s reputation.

“We have serious concerns about the performance of the Office for the Supervision of Solicitors (OSS), which is being monitored closely. The Lord Chancellor has warned the OSS that unless swift and substantive improvements are made across the board, he will not hesitate to implement his reserve powers which allow for the establishment of a Legal Services Commissioner.”¹

Between January 2003 and November 2004 the Lord Chancellor issued several warnings to the Law Society about its complaints handling performance and set targets for improvement. The Law Society’s response and the impact of the targets were limited, as the targets set by the Lord Chancellor did not have behind them the powers to ensure that specific action was taken.

“The record of complaints handling against solicitors has been the subject of much criticism over recent years.”²

“Unfortunately in spite of all efforts, complaints handling is still not efficient and effective. I have concluded therefore that I must now appoint a Legal Services Complaints Commissioner (LSCC) with powers to be directed at the Law Society.”³

The Access to Justice Act 1999 provided a solution in the form of statutory powers. Provision was created within that Act enabling the Lord Chancellor to appoint a “Legal Services Complaints Commissioner” with powers over any legal professional body whose complaints handling was not effective and efficient.

Despite being given notice in 1999 that this appointment could be activated, almost five years later, the Law Society’s complaint handling had still not improved and in February 2004, the Legal Services Ombudsman for England and Wales (Zahida Manzoor CBE) was appointed as Legal Services Complaints Commissioner with powers over the Law Society.

The Commissioner’s Office was established in Leeds in the summer of 2004. A small team of skilled staff was recruited to set up the Office and begin the work to establish the regulatory framework with the Law Society.

Importantly, the Commissioner’s staffing and resources were geared towards a “light touch” regulatory role with the Law Society (expenditure in year 1 was £1.05 million and the Office averaged 8 staff during 2004/05). However, within the first few months of operation, it was clear that the Commissioner’s office would be required to work much more intensively with the Law Society than envisaged. The first formal complaints handling plan from the Law Society went through numerous iterations over a period of more than 8 months before the Commissioner could declare that it was adequate.

¹Rosie Winterton MP, in answer to a Parliamentary Question, 22 October 2002

²Sir David Clementi, Legal Services Review Report December 2004

³Lord Chancellor, Access to Justice Act 1999, Section 10(1)(a)



The Commissioner's first Annual Report⁴ set out a number of immediate issues that needed to be tackled by the Law Society including reducing the number of older cases, improving the quality and consistency of its decisions, managing its customers' expectations better and improving their satisfaction of its service.

"I do not believe that the consumer has been the main focus of the Law Society...to date [it] has been unambitious in taking steps to improve the handling of its complaints. Too often the Law Society has sought to change performance measures or how things are counted, rather than address the real issues."⁵

"Which? welcomes the Commissioner's findings and is pleased that the legal profession has been set a clear challenge to mend their old ways and act in a way appropriate for the 21st century."⁶

In that first year the Commissioner also welcomed the opportunity for change with the publication of Sir David Clementi's "Review of the Regulatory Framework for Legal Services in England and Wales", in December 2004. She anticipated that the changes this review would bring to the way legal services would be regulated in the future, whilst challenging, would have a tangible and beneficial impact on consumers of legal services.

The Legal Services Act 2007

Since the Legal Services Bill was first introduced in 2005, it was clear that a new Legal Services Board (LSB) would provide oversight regulation for the whole of the legal profession as well as establish the new and independent Office for Legal Complaints (OLC). The Legal Services Act 2007 was passed in October 2007 and confirmed the change to the new regulatory and complaint handling structure for legal services.

As a contributor to Sir David Clementi's review, and an enthusiast for the blueprint he set out, the Commissioner was pleased to see that the changes had become law. In her view, this new Act would bring important changes to how legal services would be delivered and regulated, and how complaints would be handled, in the future.

"a tremendous opportunity to change the delivery, regulation and complaints handling of legal services for the better"⁷

The Commissioner also welcomed the new bodies created by the Act. She was of the opinion that a new and independent OLC would be an important step change for legal complaints handling which will command greater confidence than the current complaints handling arrangements. The Commissioner had been advocating such a change for a very long time, and considered that a new regulator could help to uphold and promote high standards, thereby enhancing the profession's reputation.

⁴Legal Services Complaints Commissioner Annual Report 2004-05

⁵Zahida Manzoor, CBE – Legal Services Complaints Commissioner, Annual Report 2004/5.

⁶Which? Press release May 2005

1 Setting the Scene

“It is essential that the OLC and LSB are the guardians of fairness, transparency and impartiality for both the legal services consumer and the legal practitioner who provides the services”⁸

Since the Commissioner was first appointed in 2004 she has demonstrated a strong commitment to protecting and promoting the interests of consumers of legal services, benefiting both the consumer and the profession. The impact of the reforms, however, means that once the LSB and OLC become fully operational the professional bodies’ own arrangements for handling complaints will cease and the current oversight arrangements, including the Office of the Legal Services Complaints Commissioner (OLSCC), will no longer be required.

On 18 June 2008 the Parliamentary Under-Secretary of State for Justice, Bridget Prentice MP, announced that the LSB is expected to become fully operational in early 2010 and the OLC to become fully operational during 2010. In light of these changes the Commissioner’s Office will close in March 2010.

“[the office has] provided a very valuable service to consumers and I am sure they will continue to do so until the new arrangements become operational”⁹

The essential part played by the Commissioner and OLSCC staff in turning around the performance of the Law Society’s complaints handling function has also been acknowledged by the Secretary of State for Justice and Lord Chancellor, Jack Straw MP.

“[the Commissioner] has achieved significant improvements to the Law Society’s complaints handling in the last few years both in the speed of performance and quality of service. The principal beneficiary of these improvements is the consumer.”¹⁰

It is a mark of the success story and the extent of the turnaround in the handling of complaints about solicitors, that Government can move forward to establishing the new OLC with far fewer concerns about legal complaints than before the Commissioner was appointed. Though OLSCC is entering the final phase of its work, it is in place to oversee the transition plans for complaints to move to the new organisation and to ensure that standards are maintained at this critical time.

⁸Zahida Manzoor CBE, 31 October 2007 / OLSCC Press Notice 31 October 2007

⁹Bridget Prentice M.P., Hansard Written Parliamentary Statements, 18 June 2008, Column WS82

¹⁰Law Society of England and Wales, 2008, p. 15, <http://www.law.soc.org.uk>



The Law Society Improvement Plan 2008/09

The role of the Legal Services Complaints Commissioner

As an independent regulator of the Law Society of England and Wales, the Commissioner has a statutory role to facilitate improvements in the way the Law Society handles complaints about its members.

The powers of the Legal Services Complaints Commissioner

The Commissioner's powers are set out in the Access to Justice Act 1999 (section 52) and include:

- setting performance targets for complaint handling;
- making recommendations; and
- requiring the Law Society to submit a Plan for complaints handling.

Additionally, the Commissioner has the power to impose a penalty on the Law Society, of up to £1 million, if it fails to deliver an adequate Plan or if it fails to handle complaints in accordance with that Plan.

The Law Society

The Law Society operates as three separate bodies:

- Legal Complaints Service (LCS) deals with complaints by consumers about the service received from their solicitor;
- Solicitors Regulation Authority (SRA) regulates solicitors and deals with complaints that allege misconduct of solicitors; and
- the Law Society represents the profession. It supports and protects solicitors, and promotes their work.

Although the Law Society, as the professional body, is responsible for submitting a Complaints Handling Plan, LCS and SRA have delegated operational responsibility for complaint handling in their own specific areas. Funding for both LCS and SRA is approved by the Law Society's Council.

Expectations for 2008/09

Having worked closely with the Law Society, LCS and SRA to achieve improvements in the way they handle complaints there was an expectation, with all parties, that in 2008/09 these productive relationships would help enable further improvements and ensure that future target setting:

- reflected appropriately the Law Society's complaints handling business; and
- brought about the necessary improvements and standards in complaints handling for the consumer and the profession.

In particular it was anticipated that LCS and SRA would want to build on the improvements they had made in 2007/08 by submitting a suitable improvement plan for 2008/09, to include new targets set by the Commissioner.

1 Setting the Scene

The Commissioner's Approach

Each year, in order to focus the Law Society and its complaints handling arms, LCS and SRA, on key areas for improvement, the Commissioner requests that it provides an improvement Plan showing how it will deliver performance improvements in its complaints handling system and processes, to become effective and efficient.

The targets that the Commissioner sets and the Plan she requires from the Law Society go hand in hand and are both important. The targets indicate the level of performance required and the Plan should indicate how that level of performance will be achieved.

If the Commissioner requires a plan and the Law Society fails to submit a plan that she considers adequate for moving towards the effective and efficient handling of complaints then she can impose a penalty. The Access to Justice Act 1999 sets out what the Commissioner must do before deciding on a penalty. The maximum penalty has been set by the Lord Chancellor and should be the lower of £1 million and 1% of the annual income of the Law Society.

The Law Society's Plan for the Period 1 April 2008 to 31 March 2009

The Commissioner shared her proposals for the 2008/09 targets with the Law Society in December 2007. In February 2008, following consultation with the Law Society, LCS, SRA, consumer organisations and other key stakeholders, the Commissioner formally set the Law Society its targets for the period 1 April 2008 to 31 March 2009 and requested that it provide an improvement Plan for complaints handling for the same period. The Plan needed to show how the Law Society intends to deliver improvements in its complaints handling system, and should include the targets as set by the Commissioner. The four target areas identified by the Commissioner were:

- timeliness - building on and maintaining the improvement in the timeliness of complaints handling;
- outcome of Decisions - improving the quality of decisions on complaints;
- plan Implementation - successful implementation by the Law Society, LCS and SRA of their Improvement Plan for complaints handling; and
- cost Efficiency - improving cost efficiency in the handling of complaints.

In March 2008 the Law Society submitted an Improvement Plan for the Commissioner's consideration.



The Commissioner's Decision

The Commissioner considered the Plan submitted by the Law Society and on 27 March 2008, after careful deliberation, declared it inadequate for securing effective and efficient complaints handling. The Commissioner went on to confirm that she proposed to consider whether to levy a penalty and if so in what sum.

On 3 June 2008, following the receipt of representations by the Law Society, LCS and SRA, the Commissioner announced her decision to impose a penalty of £275,000 on the Law Society for its inadequate 2008/09 complaints handling Plan.

This was the second time in two years that the Commissioner had levied a financial charge on the Law Society in response to the way it had planned to handle complaints.

However, there had been other occasions where the Commissioner, despite taking the view that the Law Society had not handled complaints in accordance with its Plan, did not levy a penalty. This was because she wanted to give the Law Society a further

opportunity to make the appropriate improvements. For example in the 2006/07 performance year (with the Law Society missing 5 of 13 targets set) and in the 2007/08 performance year (where the Law Society met 6, exceeded 2 and missed 5 of the 13 targets set). When the Law Society's LCS was falling behind on performance during the next period - 2007/08, the Commissioner welcomed the fact that the Law Society had recognised this and was making a substantial further investment of £500,000 in addition to its £36.3 million budget to boost the LCS recovery plan.

The Commissioner has always preferred to give the Law Society every opportunity to raise its performance and invest in complaints handling rather than resort to the use of the penalty. All decisions were given consideration in the round, taking into account the areas where the Law Society's performance had improved, even if not to the expected level.

1 Setting the Scene

Rationale for the Decision

The 2008/09 targets were set by the Commissioner to reinforce and build upon the improvements made in the last three years and to focus on the areas of business where LCS and SRA most needed to improve. LCS had given indications throughout the process that the targets set by the Commissioner were reasonable, but then submitted a plan that failed to include many of them at the levels set or within the timeframes defined. In many cases, the impact would not have been seen until near the end of the planning period, giving limited positive benefit for the consumer.

The Plan failed to demonstrate a commitment by the LCS to achieve some of the targets at the levels the Commissioner had set. Only in the first quarter of 2009 of the Plan year was LCS showing a degree of commitment to achieving the suite of targets. This presented a significant risk for those expecting and dependent on seeing improvements in the service offered by the LCS throughout the Plan Year.

It was the extent of the inadequacy of the Plan, together with concerns that LCS had not committed to further improvements, which determined the imposition of a penalty and its level.

“The LCS has perhaps two more years to run before it closes its doors and the new OLC is established. Transition periods can be difficult times for organisations with a risk of standards slipping. The Law Society must not allow LCS to neglect the consumer and profession’s needs at this crucial time.”¹¹

Regulatory Settlement

Following the levy of the penalty in June 2008, there was a period of intense discussion and negotiation between the Commissioner and the Law Society. Both sides were keen to find a solution which was in the best interests of the consumer and the legal profession. Through these discussions, the Commissioner and Law Society began to focus on broader issues affecting complaint handling, considered important by the Commissioner for some time, including preventative work with the legal profession to improve standards of client care. The Commissioner was keen to find a solution that would be forward-looking at a time of great change for the legal profession brought by the impending implementation of the Legal Services Act 2007.

In addition, the Commissioner and Law Society discussed how it might be possible to encourage increasing numbers of people from non-traditional backgrounds entering the legal profession to ensure that future provision remains relevant and sensitive to consumer needs.

Eventually an innovative solution was agreed with the Law Society who agreed to invest a sum equivalent to the penalty (£275,000) in a range of client care measures designed to boost capability and capacity in the legal profession. This was a very successful outcome for the Commissioner, the Law Society, the consumer and the profession.

“I am very pleased that I have been able, with the Law Society, to find a pragmatic solution to ensure that the money from the penalty, that would otherwise have not been made available for complaints handling, is being used to assist the profession and will ultimately benefit the consumer. This can only be seen as good news.”¹²

¹¹Zahida Manzoor 3 June 2008 (OLSCC Press Release)

¹²Joint OLSCC and Law Society press notice, 4 March 2009 / The Law Gazette, 4 March 2009



The Commissioner and Law Society were able to jointly announce their agreement on 4 March 2009. Within the agreement the Law Society has committed to do the following:

- establish a Consultancy Service, costing £100,000, which will involve the recruitment and training of twenty consultants nationally. These consultants will work alongside the Solicitors Regulation Authority to target around 200 firms it has identified need help with client care and complaints handling;
- set up a dedicated client care and complaints helpline, which will involve taking over the Legal Complaints Service's telephone helpline for solicitors (Lawyerline) and relocating it to its very successful Helplines team, staffed by solicitors. It has committed £30,000 to recruit additional resource, train the existing team and launch the new complaints helpline;
- make available an additional £105,000 to fund two additional places per year over five years on its Diversity Access Scheme to assist people to become solicitors; and
- recruit a Client Care Project Manager at a cost of £40,000, who will be responsible for overseeing the range of measures agreed, providing project plans and reporting to the Commissioner on a quarterly basis.

“We know there are factors that can stand in the way of talented individuals taking up a career in law. With the support of this scheme we hope that individuals, who would have otherwise struggled, can now break through.”¹³

“I am particularly pleased that the Diversity Access Scheme enables those who otherwise would not be able to study to be a solicitor realise their ambitions. This additional funding will extend the Scheme further and mean ten deserving people will be able to join the legal profession over the next five years.”¹⁴

The Commissioner is pleased that as implementation of the Legal Services Act 2007 moves forward, she has been able to secure commitment from the Law Society to investment that will have long term benefits to standards.

The Law Society has agreed to make quarterly reports to the Commissioner to update her on progress and expenditure under the programme of agreed measures. The first report will cover the period ending 31 March 2009.

¹³Des Hudson, Law Society Chief Executive, 4 March 2009

¹⁴Joint OLSCC and Law Society press notice, 4 March 2009

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

The Commissioner's Targets for 2008/09

The Importance of Target Setting

Evidence based target setting by the Commissioner directs the Law Society towards the achievement of strategic priorities in relation to improving its complaints handling.

The targets themselves are driven by the priorities of the consumer and profession and represent what they would reasonably expect from a complaints handling service. They are consistent with recognised guidance on target setting and adhere to the principles advocated by the Better Regulation Executive (BRE)¹⁵, part of the Department for Business Innovation and Skills (BIS).

The Commissioner has consistently applied the Principles of Better Regulation to her regulation of the Law Society's complaint handling functions. Targets have been set only where needed and where there has been a clear evidence base for the level at which they should be set. The Commissioner and her Office have also taken steps to minimise any regulatory burden on the Law Society, for example by regularly reviewing and reducing reporting requirements. The Commissioner's Office has also looked for opportunities to add value by sharing information and building skills within the regulated bodies (e.g. by providing advice and expertise on audit and sampling methodologies to build quality assurance capability within LCS and SRA).

Target Setting Process

Each year the Commissioner identifies specific performance targets which steer the Law Society towards the delivery of an effective and efficient service. Monitoring the Law Society's performance against these targets enables the Commissioner to independently verify the level of improvement made each year.

The Commissioner considers all the information available to her to ensure that the targets set are proportionate and appropriately reflect the Law Society's complaints handling business and are capable of bringing about the necessary improvements and standards in complaints handling. Information and factors considered include:

- the findings from audits carried out by OLSCC;
- LCS and SRA's performance and delivery against its targets and all elements of its complaints handling improvement Plan;
- action taken by LCS and SRA to address the recommendations made by the Commissioner;
- the Law Society's LCS and SRA's capability to improve;
- consultation with the Law Society, LCS and SRA on the targets for the year ahead and proposals for the same from LCS and SRA;
- consultation with OLSCC key stakeholders specifically related to target setting;
- evaluation work undertaken by OLSCC; and
- findings from investigations carried out by the independent Legal Services Ombudsman.

Drawing on a wide-ranging pool of knowledge helps the Commissioner to prioritise and to set meaningful and achievable targets that will benefit both the consumer and the legal profession.

¹⁵The five principles of good regulation state that any regulation should be: transparent, accountable, proportionate, consistent and targeted - only at cases where action is needed

The Commissioner's Decision on the Law Society's 2007/08 Performance

The Commissioner made her decision on the Law Society's 2007/08 performance in June 2008.

She set the Law Society thirteen targets, for the plan year, relating to timeliness, quality and use of resources. Information from LCS and SRA's management information reports together with the results from the OLSCC Year End Target audit in April 2008 showed that the Law Society had met six of these targets, exceeded two and missed five.

The results highlighted the fact that there was, at that time, a clear divergence in performance between the LCS and the SRA, especially on those targets measuring their adherence to quality processes, with the LCS performance levels meeting only three of its seven quality targets set and the SRA performance reaching targeted levels in five of its six quality targets.

In June 2008 the Commissioner announced her decision that the Law Society's complaints handling arms, LCS and SRA, had failed to handle complaints in accordance with their Improvement Plan for the period 1 April 2007 to 31 March 2008. However, the Commissioner acknowledged that improvements had been made in most areas where she had set targets, and decided that she would not therefore impose a financial penalty on the Law Society.

The Commissioner was particularly pleased to note that jointly LCS and SRA had met their overall target to close 67% of cases within three months (the LCS achieved 63% and the SRA 77%). The evidence shows that since the Commissioner was appointed in 2004 and began setting targets, the number of older cases has reduced substantially and complaints are being handled more quickly.

"This is good news for the consumer and this upward trend needs to be sustained and improved upon."¹⁶

Rationale for 2008/09 Target Setting

The year ending 31 March 2008 marked, for the Law Society, its fourth year towards the achievement of an effective and efficient complaints handling service. The pace of improvement had so far been slower than expected and performance inconsistent, particularly in relation to quality.

The Commissioner considered this rate of improvement in conjunction with the knowledge that following the Legal Services Act in 2007, LCS would be preparing to hand over its complaints handling function to the new OLC in 2010.

The combination of these two factors influenced the Commissioner's view of the strategic direction of improvements to be made over the next two years, by LCS in particular, as well as the need to continue to drive up performance to ensure complaints handling was fit for purpose in readiness for when the OLC becomes fully operational.

"LCS needs to commit to further improvements that will safeguard the consumer and profession as it moves towards closure in the next two years and hands over complaints to the new OLC, scheduled to be established in 2010."¹⁷

¹⁶Zahida Manzoor, 23 June 2008 (OLSCC Press Notice)

¹⁷Solicitors Journal, 24 June 2008

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

Strategic Targeting Priorities for 2008/09

The Commissioner's key priorities for improving complaints handling for the consumer and the profession in 2008/09 focused on improving quality and efficiency whilst further improving and sustaining timeliness. Four strategic priorities were identified by the Commissioner. These were:

- having a complaint handled in a timely manner by removing unnecessary delay and improving, or where appropriate maintaining, the speed with which complaints are handled and/or referred to the Solicitors Disciplinary Tribunal for those appropriate SRA cases;
- achieving a fair outcome for both the complainant and the solicitor through improved decision making (including ensuring that the proper procedures and guidance are followed during investigation) so that the outcome is consistent and accurate;
- achieving value for money through realising clear and measurable benefits from implementation of change/improvement initiatives; and
- improving cost efficiency to the handling of complaints.

These priorities had equal importance to support the improvement of services through the raising of standards within a cost efficient environment and provided a set of balanced and complementary objectives covering all complaints handling activity within the Law Society.

The Commissioner considered that the target areas she was proposing were reasonable, realistic and achievable and was pleased that both LCS and SRA had indicated that they found them appropriate. The Commissioner therefore formally set targets to support delivery of each strategic priority on 6 February 2008, covering the plan year 2008/09, and informed the Law Society that the OLSCC would be measuring its performance from 1 April 2008 against these targets.


Overview of the Law Society Targets for 2008/09

In previous years, the Commissioner has needed to focus mainly on the examination of LCS and SRA work processes (e.g. how long it takes to provide the consumer with a substantive response). She has, however, always recognised that improving the quality of complaint handling would significantly enhance the consumer experience. The Commissioner therefore moved the focus of her quality target from measures of process, as these became embedded, to a measure of the consistency and outcome of decision making and service.

The quality target set by the Commissioner for the period 1 April 2008 to 31 March 2009, was designed to increase the number of consumers who receive a fair, consistent and reasonable outcome to their complaint, and to demonstrate impartiality in the services provided by LCS and SRA.

The remainder of the Commissioner's targets concentrated on:

- eliminating the number of cases over 12 months old;
- reducing the time taken by LCS to make referrals to SRA;
- reducing the time it takes SRA to refer cases to the Solicitors Disciplinary Tribunal;
- increasing the productivity of SRA caseworkers;
- increasing the proportion of cases referred to the Legal Services Ombudsman (LSO) in which the LSO upholds the handling of the complaint by the LCS caseworker;
- achieving a reduction in the average unit cost per LCS complaint; and
- achieving initiatives to support delivery.



On 11 June 2008, the Commissioner set the LCS an additional target relating to the handling of Coal Health Compensation cases. This target assessed the quality of LCS caseworker investigation in miners' complaints and came into effect from 1 July 2008.

The Law Society's Performance for 2008/09

Commissioner's Strategic Priority 1: Building on, and maintaining the improvement in the timeliness of complaints handling.

Timeliness Target T1 and T3: 12 month Closures

All LCS and SRA complaints, from date of receipt to take no longer than 12 months to investigate and conclude, apart from in exceptional circumstances.

The time it takes to handle a complaint continues to be an important factor for both the consumer and solicitor. In view of this the Commissioner set the Law Society two timeliness targets for the period 1 April 2008 to 31 March 2009.

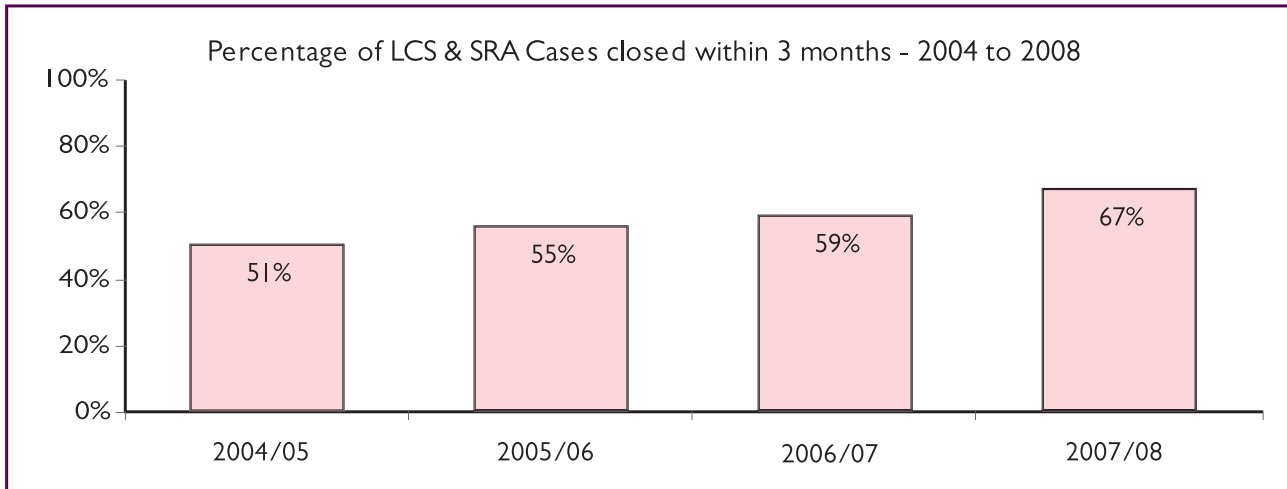
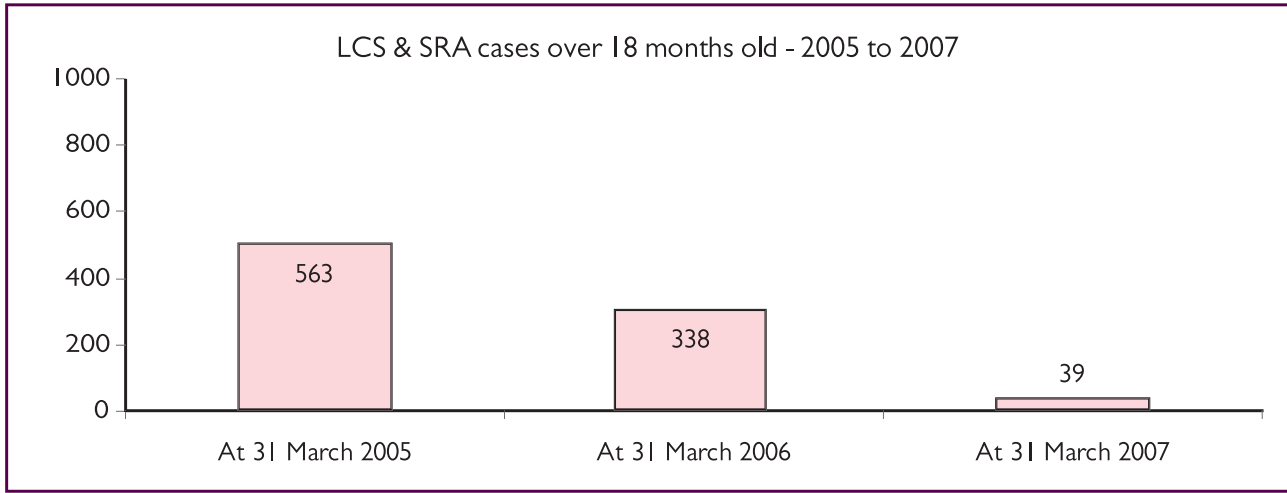
“Any targets which are set will encourage improved performance and support the Law Society in its aim to ensure a high standard of service for the public.”¹⁸

One of these target areas, Timeliness Target T1 (LCS) and T3 (SRA), continued the theme from the previous year in which the Commissioner required all cases, unless there were exceptional circumstances, to be dealt with and closed, within 12 months.

When the Commissioner was appointed in 2004 there were 539 cases over 18 months old, of which over 200 were at least 2 years old. By setting achievable timeliness targets to focus LCS and SRA on reducing the time taken to conclude complaints within, at first 15 months, and then 12 months, the Commissioner has significantly helped LCS to reduce the overall age profile of cases which in turn has increased the number of cases closed within 3 months.

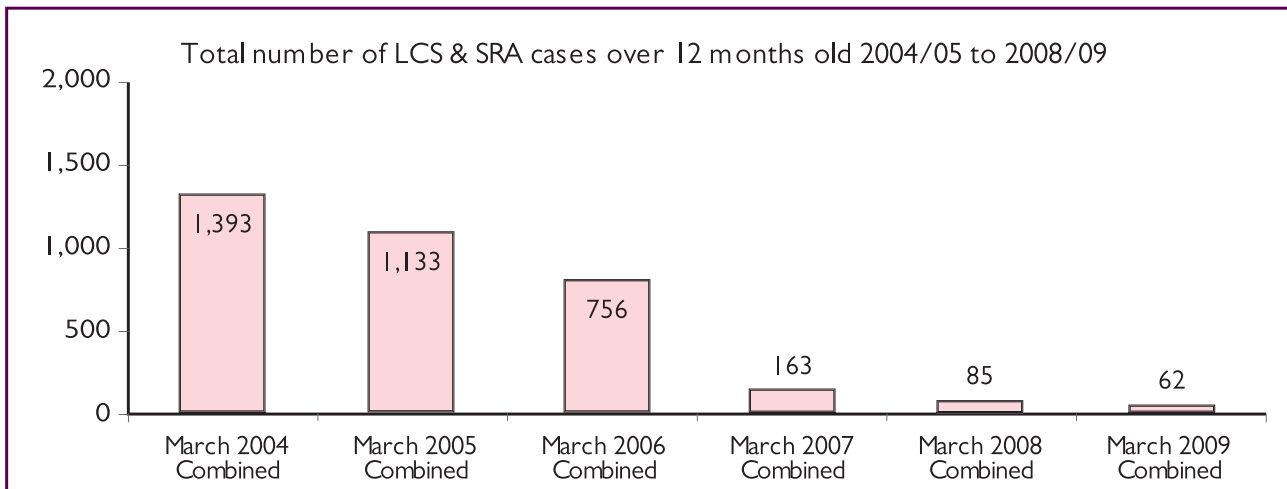
¹⁸Lord Falconer, Secretary of State for Constitutional Affairs and Lord Chancellor, Press release September 2003

2 The Commissioner's Targets and the Law Society's Performance for 2008/09



In April 2004 the Law Society started the year with 7,455 cases in hand, 1,393 (18.7%) of which were over 12 months old. As at 31 March 2009, the Law Society has 5,268 cases in hand, of which only 62 (1%) are over 12 months old. This is a key

achievement for the Commissioner who, by actively targeting LCS and SRA performance in this area, has enabled improvements in the speed of complaints handling for both the consumer and the profession.



At the end of March 2009 there were only 43 cases open with LCS for a period over 12 months. 41 of these cases formed part of the LCS insurer's initiative which the Commissioner had already agreed to disregard from the target because they were outside LCS's direct control and the remaining 2 cases were reported by LCS as complex service matters. Therefore, taking all factors into consideration, the Commissioner regards the complaints which remained open for a period in excess of 12 months to be exceptional and considers timeliness target T1 to have been met. Overall the Commissioner recognises that LCS has made considerable improvements in the time it now takes to handle complaints and is pleased to see that consumers and the profession are now receiving a much improved service.

By the end of March 2009 SRA had only 19 cases open for a period over 12 months. Having considered SRA's explanation, the Commissioner is content that these cases remained open due to exceptional circumstances. The Commissioner recognises that SRA has made considerable improvements in the time it now takes to handle complaints and considers timeliness target T3 to have been met.

The Commissioner is pleased to note the level of improvement made in this area by LCS and SRA. In her view, the Law Society now needs to ensure that this success is maintained and that any potential rollover of cases into the older age category is kept to a minimum. To ensure this momentum is maintained the Commissioner has set an additional target for the period 1 April 2009 to 31 December 2009 which requires LCS to investigate and conclude at least 87% of cases within 6 months of receipt.

Timeliness Target T2: 3 Month Referrals to SRA

LCS to refer to SRA within 3 months of receipt, all matters of misconduct identifiable at that time.

It is important that LCS commits fully to preventing any avoidable delay in referring cases to the SRA where a conduct matter has been identified. For this reason the Commissioner set a new target for LCS, for those cases it received after 1 April 2008, to refer all identifiable misconduct matters to the SRA within 3 months of the date of receipt of the complaint.

LCS reported that between 1 April 2008 and 31 March 2009 it identified 705 matters of misconduct which it referred to SRA for further action, 497 of which it referred within the agreed 3 month deadline. The Commissioner noted that in many of the remaining cases referred to SRA outside of the 3 month time limit LCS reported that the misconduct was not identifiable within the timeframe. Although there was a small number of cases where the misconduct was identifiable and could have been referred within the timescale, overall, because of the improvements made in this area the Commissioner considers that timeliness target T2 has been met.

This result is reassuring for the Commissioner who is pleased to see that LCS has made a good start with this new objective.

However, she encourages LCS to continue to strive to improve the referral process to ensure that there are no unnecessary delays in referring misconduct matters as soon as they are identified so that those solicitors are dealt with in a timely and appropriate manner.

Analysis of trends in misconduct and information on conduct complaints have acted as an early warning system for the Commissioner to indicate a potential for more systemic failings (for example this was evident with the issues concerning handling of Coal Health Compensation cases).

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

The Legal Services Act 2007 places the emphasis on the OLC to refer alleged misconduct in complaints to the Approved Regulators, but could potentially provide for less transparency and a circuitous route for feedback on what action the Approved Regulators have taken. The importance of the link between complaints and misconduct must not be allowed to drop off the radar. The Commissioner would be pleased to see this issue being actively considered by the LSB and the OLC, when developing their respective Rules.

Timeliness Target T4: 18 Month Lodging with Solicitors Disciplinary Tribunal (SDT)

All SRA complaints where there is a referral to the SDT, from the date of receipt to take no longer than 18 months to investigate and conclude, prepare fully, and lodge with SDT, apart from in exceptional circumstances.

The timeliness target T4 was also a new target for SRA. No previous targets have been set for measuring the time taken to lodge cases with the SDT.

The Commissioner set this new target because she was concerned about the length of time some cases were taking to be lodged with the SDT. Previous research completed by the Commissioner's audit team identified that SRA complaints were taking as long as 26 months to be prepared before cases were presented to SDT. Setting a target of 18 months enabled SRA to focus on identifying and eliminating avoidable delays thereby speeding up the time taken to prepare referrals.

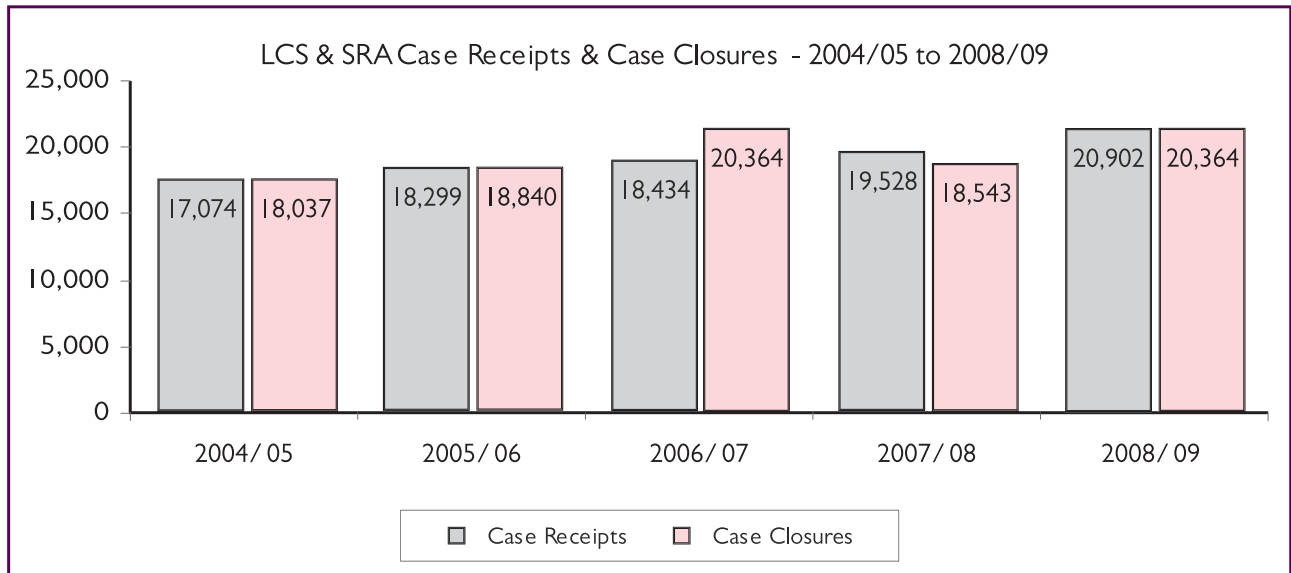
SRA reported that between April 2008 and the end of March 2009 it lodged 26 cases with the SDT, all within the 18 months timescale. As at 31 March SRA had 23 purely conduct based Tribunal matters where disciplinary hearings had yet to be issued. In none of those cases was the original conduct investigation opened more than 18 months ago. The Commissioner therefore considers that timeliness target T4 has been met by SRA.

In acknowledgement that there are still improvements that can be made in reducing the time it takes for SRA to lodge cases with SDT, the Commissioner, in accordance with her powers from 1 April 2009, has made a recommendation to the Law Society, for the period 1 April 2009 to 31 December 2009, for all cases to be lodged within 12 months. The Commissioner's view, however, is that even 12 months is still too long to take to lodge cases with SDT and that SRA should, in the interests of the consumer and the profession, aim to reduce the time taken even further.

Number of Complaints Received and Closed by LCS and SRA

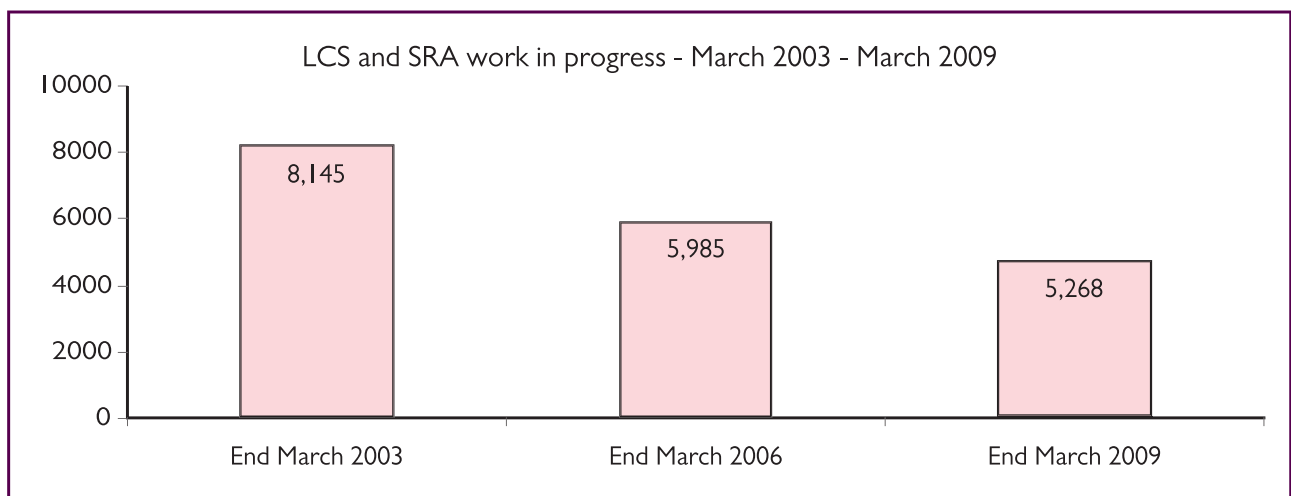
From 1 April 2008 to 31 March 2009, LCS and SRA jointly received 20,902 new complaints which is 1,374 (7%) more complaints than they received in 2007/08.

The overall number of complaints received by LCS and SRA has steadily increased from 17,074 in 2004/05 to 20,902 in 2008/09. The increase in complaints is due in part to a rise in the number of conduct referrals made to SRA by LCS caseworkers, as well as the high number of coal health compensation cases still being received by LCS which, in 2008/09 accounted for a total of 1,565 cases, the equivalent of 7.5% of LCS's total receipts. The year on year increase in complaints about solicitors, from consumers, continues to be a concern to the Commissioner.



The Commissioner is of the view that the Law Society still needs to undertake more targeted preventative work with firms of solicitors to address the large number of complaints being made overall.

LCS and SRA jointly closed 20,364 cases during the year, which was 1,023 cases (5%) above their revised closure forecast of 19,341, and 1,821 more closures than in the previous year.



By 31 March 2009 LCS and SRA had a work in progress level of 5,268 complaints. It is important that the work in progress level at LCS is kept to a minimum to facilitate a smoother handover of

work between it and the OLC. This is why the Commissioner has set a target for LCS to ensure its work in progress levels are at 3,445 by 31 December 2009.

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

Commissioner's Strategic Priority 2: Improving the outcome of decisions on complaints

Quality Target Q1 (LCS) and Q2 (SRA): Fair and Reasonable Outcome

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

The quality targets set by the Commissioner in 2006/07 and again in 2007/08 for LCS and SRA were intended to ensure that consumers received a consistent service and were supported to make informed decisions. They were largely based on LCS and SRA's application of their published policies and adherence to their own customer service standards. For example, if the standards stated that LCS and SRA would let a consumer know how their complaint was progressing every 30 days, then LCS and SRA were expected to do so in the majority of cases to meet the Commissioner's target.

The setting of quality target Q1 marked a significant departure from previous targets in that it placed greater emphasis on the determination of the quality

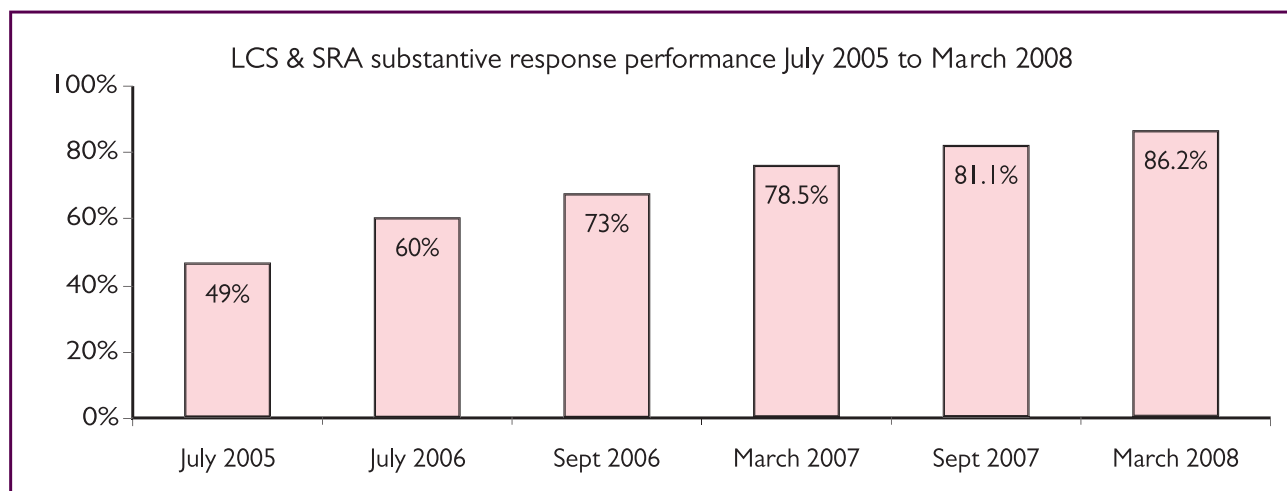
and impact of the caseworker's decision-making on the whole consumer experience, rather than on any individual process based measure.

To determine whether an outcome could be described as reasonable for the consumer and/or whether there were significant failings, each complaint file in the sample was examined against a number of high-level criteria that were grouped under three headings:

- decision-making;
- consumer circumstances (for example, whether the consumer was elderly and/or vulnerable); and
- administration of the complaint.

The change in focus also acknowledged the Commissioner's success in facilitating the progress made by both LCS and SRA in improving their own work processes. For example, LCS and SRA caseworkers are expected to send a substantive response to the consumer within a specified timescale.

When OLSCC auditors first began monitoring this process they noted that only 49% of consumers received a substantive response within a reasonable period of time. By March 2008 however, through discrete targeting this figure had increased to 86%, thereby increasing consumer confidence in the service provided by the Law Society.



LCS Quality Target Q1 Results

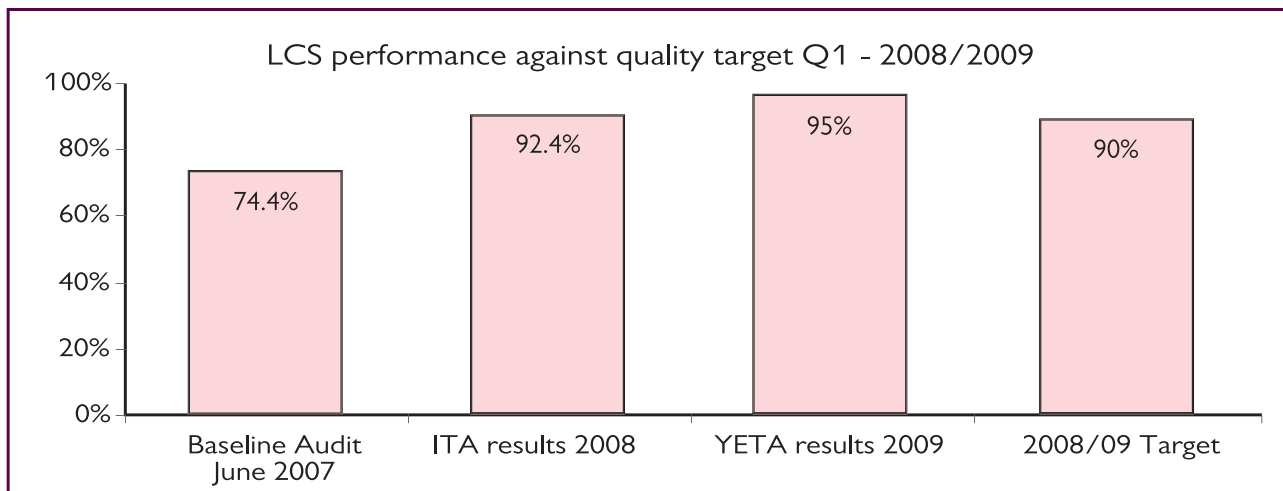
Quality target Q1 was measured by a Year End Target Audit (YETA) of an appropriate sample of LCS case files at the end of the Plan year, together with information from a number of cases examined during the Indicative Target Audit (ITA) (where cases had been randomly selected for both ITA and YETA and the outcome had remained unchanged), to determine whether the target was achieved. The combined audit results showed that LCS achieved 95% against a target of 90%. The Commissioner therefore considers that quality target Q1 has been met by LCS.

The Commissioner was pleased with the result as it means that each consumer that makes a complaint to LCS about the poor service they received from their solicitor, is now more likely to have a more positive and consistent overall experience than they did before.

This improvement in the quality of complaints handling provided by LCS to its consumers has been noticeable since the Commissioner began measuring this aspect in June 2007.

LCS has built on the results from the baseline audit carried out at that time by the Commissioner's team, and, by engaging with the OLSCC auditors to ensure a common understanding of the criteria used to assess the quality of casework, has demonstrated its commitment to achieving improvement for its consumers and the profession.

The ITA results show that LCS improved by 18% and maintained that improvement in the YETA.



2 The Commissioner's Targets and the Law Society's Performance for 2008/09

SRA Quality Target Q2 Results

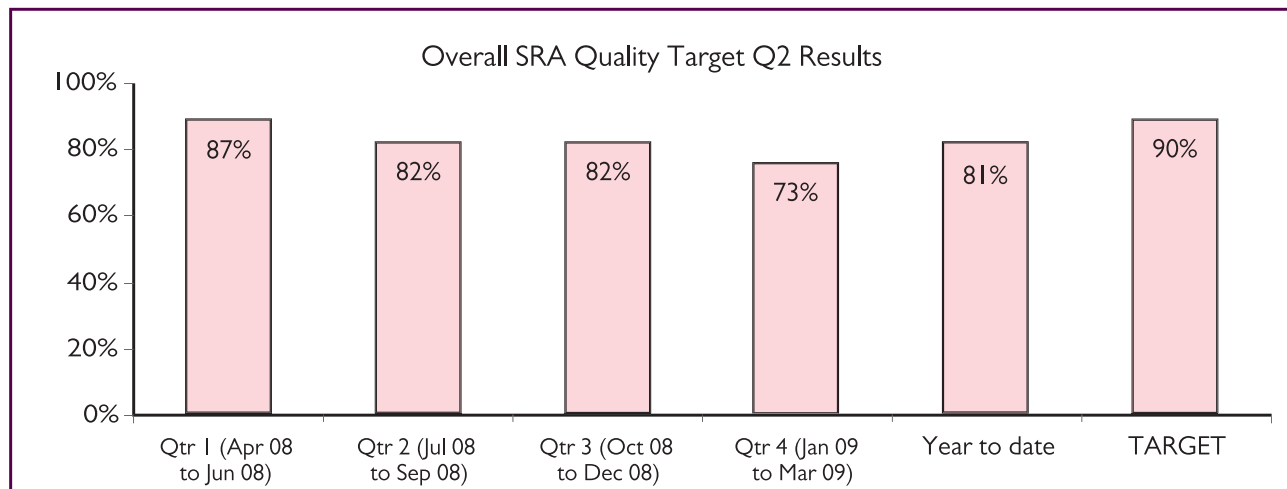
Performance against the quality target Q2 for SRA is based on a combined measure of OLSCC quarterly audits of case files that have already been reviewed by SRA, the feedback received from SRA Adjudicators and the LSO's independent assessment of the quality of SRA casework. The aim of the target is to ensure a fair, reasonable and proportionate outcome for the consumer and the profession.

SRA achieved 81% against a target of 90% and the target was missed. The Commissioner sees this as a

very important target as it goes to the heart of the experience the consumer and the solicitor have of how SRA handle the complaint made.

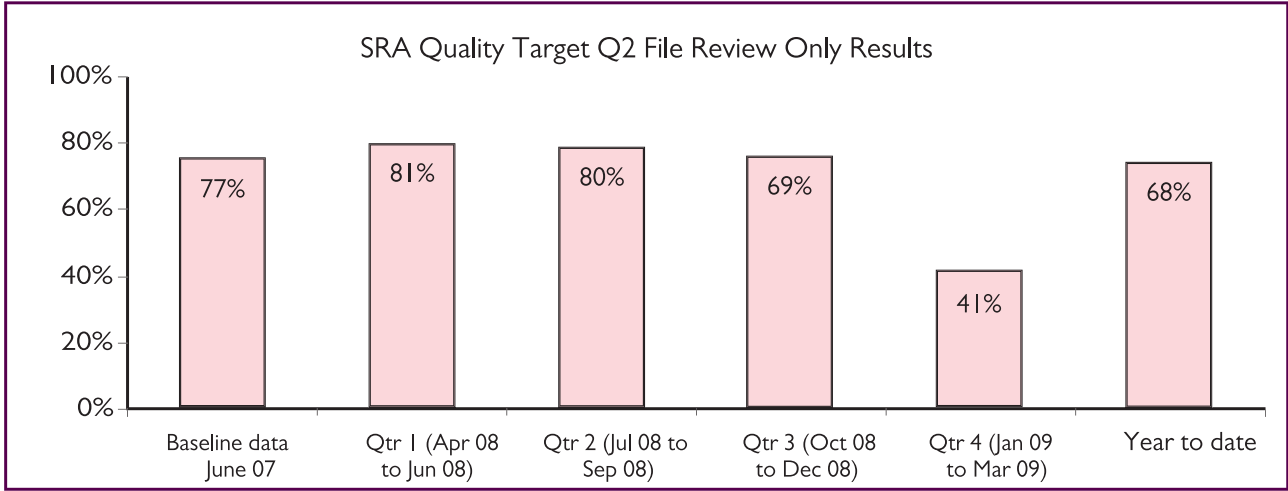
The Commissioner is particularly concerned at the worrying trend for this target, especially since the target includes elements of process based activity such as, for example, the administration of a complaint and timeliness, which should not prove difficult for SRA caseworkers to achieve as part of their usual way of working.

From the graph, it can be seen that over the year there has been a 14 percentage point drop in performance by SRA, from 87% in the first quarter's results to 73% in the final quarter's results.



This trend is starkly highlighted in the files reviewed by SRA and independently audited by the Commissioner's audit team. Concerns were raised with SRA by the audit team throughout the year as issues were identified, but SRA failed to act effectively on all the feedback provided.

The graph below shows that despite an initial improvement of four percentage points from the baseline audit in June 2007 to the first quarter's results, in the final quarter SRA's result has fallen 40 percentage points over the year. This is an unacceptable result.



The responsibility to improve this now rests with the SRA Board. This trend has to be reversed and the Commissioner urges SRA Board to take action to ensure this happens.

investigation into that specific case. The measure of the LSO's satisfaction with the way LCS has investigated the complaint acts as an indicator of the quality of its decision making, customer service and administrative performance.

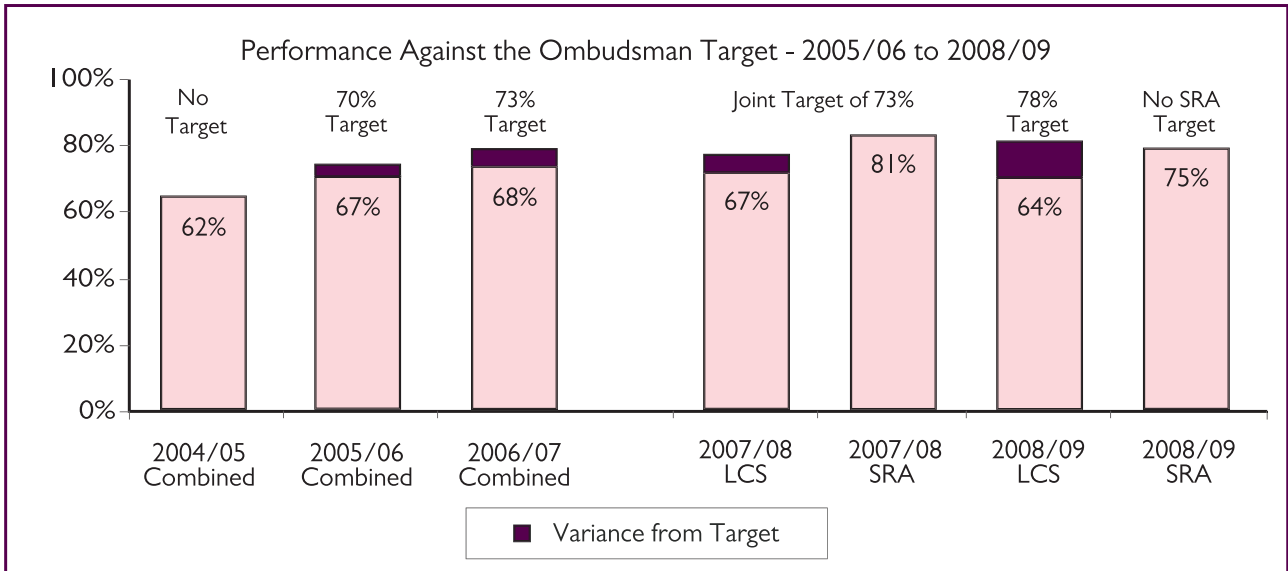
Quality Target Q3: Legal Services Ombudsman (LSO) findings

The LSO to support the handling of complaints by LCS in 78% of cases referred to her.

Consumers who are dissatisfied with the way that the LCS has dealt with their complaint can refer the matter to the LSO who will conduct an independent

The target, which provides an independent scrutiny of LCS casework, was missed. Performance was achieved at 64% against a target of 78%.

LCS and SRA had previously been measured jointly, however, noting a growing divergence in LCS and SRA performance in 2007/08, the Commissioner decided to set LCS its own target for 2008/09.



2 The Commissioner's Targets and the Law Society's Performance for 2008/09

LCS has now missed this target for the fourth year in succession and it is of particular concern to the Commissioner that its performance is now lower than it was during the 2007/08 plan year when it achieved 67%. However, performance is still higher than when the Commissioner first set a target in this area in 2005 following a joint achievement of 62% by LCS and SRA in 2004 to 74% in 2007.

Using the outcomes from the LSO's reports more effectively would help LCS to embed the learning from the feedback provided ensuring a more consistent quality of decision making by LCS caseworkers that would enable LCS to improve its performance in this target area.

Commissioner's Strategic Priority 3: Successful implementation by the Law Society, LCS and SRA of their improvement Plan for complaints handling

Plan Implementation Target P1 (LCS and SRA): Priority Initiatives

LCS and SRA priority initiatives to support the delivery of the Law Society's non-statutory 2008/09 complaints handling plan are delivered to time and cost in accordance with the plan, and meet all related milestones and benefits to be realised.

Implementing change and business improvement is important for any organisation. Whilst the Commissioner recognises that LCS and SRA have strengthened areas of its project management and programme assurance activity, she is conscious that further improvement is possible. In particular the Commissioner has concerns about LCS and SRA's capacity to scope projects effectively at the outset and successfully implement an effective benefits realisation approach. As well as identifying the benefits, the improvements must be clearly measurable and evaluation undertaken to ensure that all the benefits identified were actually realised.

The Commissioner had, in 2007/08, requested that LCS and SRA provide her with sufficient assurance that they had identified the benefits they expected to realise from their initiatives and that these were clearly measurable and added value to complaints handling. In the absence of measurable benefits the P1 target which was set for 2007/08 was reset for 2008/09.

In its original 2008/09 plan, LCS identified 3 strategic objectives within its improvement agenda: improving LCS services, informing consumers and improving standards. LCS revised the plan in September 2008 and reported that it now had six initiatives within its Business Improvement Plan:

- **Programme 1** - Improving Services – by improving quality performance to 90% and meeting the Commissioner's target Q1, and by improving economy and efficiency and meeting the Commissioner's target C1;
- **Programme 2** - Informing Consumers – by ensuring that all consumers have improved access to relevant information to help them make informed decisions;
- **Programme 3** - Improving Standards – by raising awareness of the importance of, and helping firms to achieve, good client care and effective complaints handling with the aim of reducing the number of complaints received by LCS about solicitors;
- **Programme 4** - Equality and Diversity – through compliance with the Law Society's statutory requirements on Equality and Diversity and by meeting the Commissioner's target P2;
- **Programme 5** - People Strategy – to ensure staff are adequately supported as new capability improvement initiatives are introduced to develop staff skills, knowledge and behaviours and to increase productivity; and
- **Programme 6** - Legal Services Act (LSA) – by ensuring LCS meets its obligations to resolve complaints in accordance with the reforms of the LSA 2007.

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

LCS reported that it had achieved a number of outcomes and benefits in addition to meeting the targets set for Programmes 1 and 4. These included: ensuring access to redress for nearly 40,000 miners' and their families; highlighting the benefits of good client care to the profession by, for example, launching a national Client Care Award event; producing a client care and complaints handling guide for solicitors illustrating best practice identified from the Client Care Award event and complying with the mandatory changes introduced by the Legal Services Act 2007.

The Commissioner has considered all of the work undertaken by LCS against the improvement programmes shown within its improvement agenda for the period April 2008 to the end of March 2009. She is pleased to see that the LCS Business Improvement Steering Committee has regularly reviewed each of the LCS improvement programmes and progress against the specified outcomes throughout the year to ensure that the work undertaken continued to meet business needs. Based on the information reported to date by the LCS, the Commissioner can see that action has been taken on the majority of activities listed within the agreed deadlines. In light of this action the Commissioner considers Plan Implementation Target P1 to be met by LCS.

In its 2008/09 plan, SRA also identified a number of strategic objectives within its improvement agenda:

- Improved Decision-Making - by improving quality performance to 90% and meeting the Commissioner's target Q2, and by improving efficiency and meeting the Commissioner's target C2;
- Process Standardisation – through the introduction of a new IT system; and
- Equality and Diversity Programme (Year 3) - through compliance with the Law Society's statutory requirements on Equality and Diversity and by meeting the Commissioner's target P2.


SRA reported that there had been a number of challenges in securing funding for its new IT system, which were still being negotiated with the Law Society. The SRA Board confirmed that the Law Society Management Board had seen the high level business case and approved the general direction of travel. The next step was to produce an enhanced business case. SRA report that changes to systems to cope with Entity-Based Regulation had gone live in January 2009 without any difficulties and that the web strategy solution project, to select a new web content management system, was going according to plan.

The Commissioner has also considered the work undertaken by SRA during the period April 2008 to the end of March 2009 against the improvement programmes identified within the 2008/09 plan. The Commissioner has noted the information reported to her, to date, by SRA, and can see that in the main, action has been taken wherever possible, on the majority of activities listed. In light of the information available to her, the Commissioner considers Plan Implementation Target P1 to be met by SRA.

The Commissioner is pleased to see that, in terms of SRA's Decision-Making Project, an audit of existing decision making was completed across all business units and actions have now been agreed to ensure greater compliance with the 11 principles of regulatory decision making which the SRA Board approved following public consultation.

Plan Implementation Target P2 (LCS and SRA): Equality and Diversity

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



Although the Commissioner is aware that both LCS and SRA had completed audits on their compliance with equality and diversity requirements in the 2007/08 plan year, she was disappointed to note that work on addressing the findings was still in the early stages. The Commissioner has been pressing for action in this priority area since 2004 when she set a suite of Key Performance Indicators designed to identify trends and enable LCS and SRA to draw conclusions and instigate policy changes. She was concerned at the lack of progress made to date and was looking for LCS and SRA to meet fully its delegated statutory obligation regarding equality and diversity (E&D). She therefore set a new target in this area to ensure that both LCS and SRA comply with the Law Society's Public Duty requirements in 2008/09.

In the 2008/09 plan submitted to the Commissioner both LCS and SRA committed to making further Equality and Diversity improvements.

LCS proposed to ensure that its Equality and Diversity Strategy was formulated and embedded across the whole organisation by addressing the recommendations made in the LCS E&D Baseline Audit report of May 2007. LCS reports that the actions highlighted in this report have now been achieved. Specifically, LCS has informed the Commissioner that it has identified and assessed the impact of all its high and medium risk policies and processes to ensure that any inequalities in service delivery are identified and immediately dealt with; delivered appropriate training to raise equality and diversity awareness and has analysed the complainants database on a regular basis to ensure its service is accessible and tailored to the diverse needs of its consumers and solicitors.

SRA stated it would put in place plans to address the recommendations made in SRA E&D Audit report dated October 2007 by gathering more robust E&D data from its stakeholders, identifying the E&D characteristics of more users of its services and assessing more of its own procedures and policies from an E&D perspective.

SRA reported that progress had been achieved this year. The main successes include: the implementation of E&D data collection on solicitors and informants; the impact assessment of key processes and policies; the introduction of a Protocol for dealing with complaints of discrimination against SRA; raising the profile of E&D across SRA with the creation of a Diversity Working Group at SRA Board level and the introduction of a SRA E&D Strategy together with the implementation of a SRA Action Plan to deliver against the strategy.

SRA's E&D Strategy was published in October 2008, following an independent report commissioned from Lord Herman Ouseley. Lord Ouseley's report set out some important challenges for SRA in relation to embedding good equality and diversity practice within the organisation at all levels. The Commissioner welcomed the publication of SRA's consultation on its Equality and Diversity Strategy and responded to the consultation reflecting on SRA's ambitious programme of implementation in the next 2 years, and advising that positive results could take much longer to realise.

The Commissioner has considered the work undertaken by LCS and SRA during the period April 2008 to the end of March 2009 and whilst she is pleased to see that both LCS and SRA have taken steps to address the recommendations made in their respective audit reports, she is of the opinion that further work still needs to be carried out in this area.

Although the Commissioner has been unable to independently verify the information provided to her, she considers that the progress made so far is sufficient to enable her to consider that both LCS and SRA have met the E&D target for 2008/09.

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

Commissioner's Strategic Priority 4: Improving cost efficiency to the handling of complaints

Cost Efficiency Target C1: Unit Cost Saving

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

The Commissioner views achieving efficiency in the cost of handling complaints as a priority for LCS and SRA and set the foundations for developing this last year through the introduction of Key Performance Indicators (KPI's) to measure the cost per complaint for both areas. The Commissioner considers, however, that there are still a significant number of efficiencies that can be made, particularly for LCS as it prepares to hand over its complaints handling operations to the OLC.

During the 2007/08 plan year, LCS spent £30.926 million on complaints handling, £551k (1.81%) above its final forecast of £30.375 million. The average unit cost per complaint was £2,036. In order to meet cost efficiency target C1, LCS needed to reduce its average cost per complaint by 4.13%, to £1,952 by 31 March 2009. This target would have represented the first step in improving costs, however the transition to the OLC has negated the need to set LCS further targets.

LCS reported that its average cost per complaint for 2008/09 was £1,839 which is £113 (6%) below the Commissioner's target of £1,952 per complaint and 9.7% below the previous year's cost.

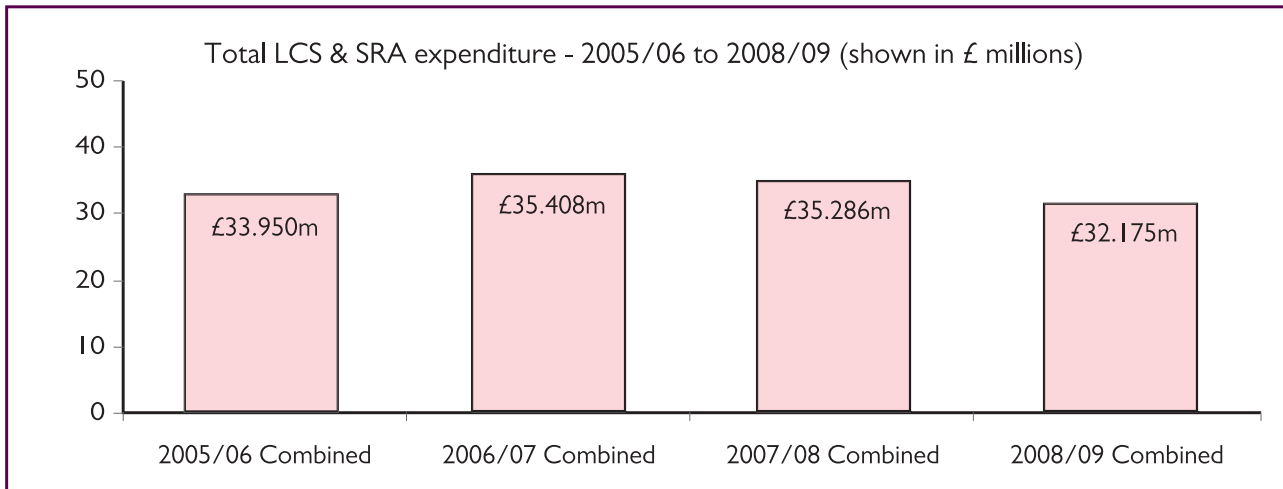
The Commissioner was pleased to be able to note that this target, which measured LCS unit cost per complaint for the first time, was met. She does, however, caution how successful the improvement in costs is when compared to the predicted running costs of the OLC and other comparable complaint handling bodies.

PricewaterhouseCooper's (PwC) original forecast (in 2005 prices) for the ongoing running costs of the OLC were £16.8 million, using their base case scenario – a single office in the West Midlands. Following further analysis by officials at the Ministry of Justice, the forecast revised running costs of the OLC are now £19.9 million in 2007/08 prices.

For 2008/09 LCS predicted its running costs would be £31.7million. Even acknowledging the improvement made by LCS in its average cost per complaint, compared to the predicted running costs of the OLC - which includes the handling of complaints about other professional bodies - LCS still has scope for further improvement before it closes and the OLC is established. Any additional LCS cost is borne by the profession and ultimately passed on to the consumer.

Expenditure

Budget information provided by LCS and SRA shows that actual expenditure for the period 2008/09 was £32.175 million. This is 11.3% below forecast spend of £36.263 million and £3.1 million (8.8%) less than the previous year. This is an improvement for the Law Society, however, the Commissioner is of the opinion that the cost of LCS complaint handling is still too high and should be reduced considerably.



Cost Efficiency Target C2: Productivity

SRA to deliver during the plan year a 5% efficiency in caseworker productivity and achieve on average 5.64 closures per caseworker, per month.

The handling of complaints about professional misconduct is only one element of the work SRA does. As a consequence, targeting SRA cost efficiency in the same way as for LCS would not be appropriate. Therefore the Commissioner proposed

to measure cost efficiency for SRA through a KPI but set a target based on the SRA's proposal to achieve efficiency in its caseworkers' productivity.

SRA reported that between April 2008 and March 2009, it was performing at an average of 6.6 closures per caseworker, per month. This is 0.96 closures (17%) above the Commissioner's target of 5.64 closures per caseworker.

The Commissioner considers that this target has been met.

2 The Commissioner's Targets and the Law Society's Performance for 2008/09

Coal Health Compensation Target M1: Miners' Cases

Cases received after 1 July 2008 LCS to fully investigate and inform the customer, in at least 93% of cases, of:

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

This target was set by the Commissioner later than her other targets and has therefore been measured from July 2008, rather than April 2008. It was created in response to the issues identified in the 2007 Coal Health Compensation Scheme Audit which were highlighted in the Commissioner's Special Report: Investigation into the handling of Coal Health Compensation Scheme complaints, published in January 2008. The Commissioner was concerned that different outcomes were being achieved for miners' depending on which LCS caseworker was handling the complaint and set this target in order to support the effective and consistent handling of Coal Health complaints in 2008/09.

The results show that in cases that opened and closed between 1 July 2008 and 31 March 2009 LCS achieved 97% against the target of 93%. The Commissioner therefore considers that quality target M1 has been met from this small sample of cases.

This is a much improved result in comparison to the findings from the audit completed in 2007. The results from the 2007 audit gave the Commissioner concerns that insufficient information was being provided to the consumer about the options available to enable them to make informed choices about how to resolve their complaint. The results from the 2007 audit showed that only:

- 72% of consumers were told that adjudication was an option to conciliation;
- 63% of consumers had the seriousness category of their complaint and the likely size of their award explained to them;
- 67% of consumers received an explanation of Distress and Inconvenience in addition to any financial loss that the consumer may have incurred; and
- 27% of consumers were given all three pieces of information.

The Commissioner was pleased with this achievement which shows that LCS has responded positively to the findings in the Commissioner's Special Report about the handling of Coal Health Compensation Scheme complaints. In raising its standards, LCS is now dealing with vulnerable miners' in a more effective and consistent way. However, as this was a small and specific sample of files, the results can not be used as assurance that all miners' complaints are being, or have been, handled as well.

Overall Summary of LCS and SRA Performance for 2008/09

Target Area	2008/09 Performance	
	LCS	SRA
T1 and T3 Timeliness Target 12 month closures	MET	MET
T2 Timeliness Target Referrals to SRA	MET	NO TARGET SET
T4 Timeliness Target Referrals to SDT	NO TARGET SET	MET
Q1 and Q2 Outcome of Decisions Target - Fair & Reasonable Outcome	MET	NOT MET
Q3 LSO Satisfaction Rating Target LSO findings	NOT MET	NO TARGET SET
P1 Plan Target Priority Initiatives	MET	MET
P2 Plan Target Equality & Diversity	MET	MET
C1 Cost Efficiency Target Unit Costs	MET	MET
M1 CHC Target Miners' cases	MET	NO TARGET SET

The overall results show that LCS has, at the end of the 2008/09 plan year, met 7 targets and missed 1 target, whilst SRA has met 5 targets and missed 1 target. The steady improvement made by both LCS

and SRA is pleasing for the Commissioner who has consistently set stretching but achievable targets for both organisations to ensure complaints are being handled more effectively and efficiently.

Objectives for the next 12 months

The focus for 2008/09 was to take further steps towards achieving an effective and efficient complaints handling service by the Law Society. The Commissioner's aim for 2009/10 is to continue to influence LCS and SRA's performance to bring about further improvements in the way they handle complaints, to prevent slippage and to provide as much support as possible before the Commissioner's oversight role ceases at the end of 2009 and OLSCC's planned closure in 2010.

In the run up to closure of her office the Commissioner has determined the staffing required to meet her planned work programme. In conjunction with the MoJ, the Commissioner will continue to provide practical support for staff moving onto new roles in the future.

The Commissioner has set up an internal transition group to oversee arrangements up to closure and to consider the associated risks and issues.

The Commissioner's Reappointment

In February 2009, the Secretary of State for Justice and Lord Chancellor announced the further re-appointment of Zahida Manzoor CBE as Legal Services Complaints Commissioner until 2 April 2010. Ms Manzoor was also re-appointed as the Legal Services Ombudsman for England and Wales until 2 March 2011.

The re-appointment of the Commissioner will run until the closure of OLSCC on 31 March 2010. It is anticipated that the LSB will be fully operational by this date. The continuation of the Commissioner's role until this time will help to ensure that consumer

rights are protected during the transition period for the full implementation of the Legal Services Act 2007.

In re-appointing Ms Manzoor, the Minister praised the Commissioner's strong commitment to protecting and promoting the interests of consumers of legal services.

"It is paramount that this momentum continues as we enter the transition phase towards the new regime provided by the Legal Services Act 2007."¹⁹

The Secretary of State and Lord Chancellor has also from 1 April 2009, amended the powers of the Legal Services Complaints Commissioner. These powers are aligned with the Government's priorities for LCS towards its closure and in the months leading up to full implementation of the OLC. This change will enable the Commissioner to provide a continuing oversight of the Law Society's complaints handling to ensure there is no decline in standards of performance before the new independent OLC becomes fully operational. The Law Society has welcomed this approach.

"We are entirely committed to ensuring that standards at the Legal Complaints Service are fully maintained and look forward to working with [the Commissioner] in achieving this and addressing the challenges of a smooth handover to the Office for Legal Complaints on the closure of the Legal Complaints Service."²⁰

¹⁹Secretary of State for Justice, 17 February 2009 (MoJ Press Release)

²⁰Des Hudson, Law Society Chief Executive on the Commissioner's re-appointment, February 2009

Given the reduction in resources required by the Commissioner and as her team leave to take on new opportunities, the onus now falls mainly to the Law Society to ensure LCS does not let slip the improvements it has made in what could be its final year of operation.

The Commissioner recognises, however, that implementing transitional change can be more challenging than completing 'business as usual' activities. In recognition of this, and in order to ensure there is no deterioration in standards for consumers at what is a critical stage for the Law Society, the Commissioner has set, for 2009, a number of key targets and made recommendations to the Law Society to maintain performance that has been achieved by LCS and SRA in specific areas.

Target Proposals for the Period 1 April 2009 to 31 December 2009

In accepting a non-statutory plan from the Law Society in relation to complaints handling by LCS for the period 1 January 2009 to 31 March 2010, the Commissioner was concerned to note that in a number of instances its performance objectives within the LCS plan were at levels lower than its current performance.

“The transition period from one complaints handling body to another is a critical time for consumers. The LCS cannot afford for backlogs of complaints to build or for the progress it has made on the speed of handling complaints to slip at this point. Of course this needs to be achieved while retaining a focus on quality.”²¹

To ensure LCS and SRA continue to aim to improve, and to ensure there is no slippage in performance before the handover to the OLC, the Commissioner set three targets and made five recommendations, to cover the areas which continue to be key priorities, for the period 1 April 2009 to 31 December 2009.

The targets set and recommendations made by the Commissioner apply a balanced approach to the work of the Law Society and one which fits with the Law Society, LCS and SRA complaint handling agendas for improvement for 2009. The Commissioner's targets and recommendations for the period 1 April 2009 to 31 December 2009, are as follows:

Timeliness Target T1 – 6 Month Closures

LCS to investigate and conclude at least 87% of cases within 6 months of receipt.

Timeliness Target T2 – 12 Month Closures

LCS to investigate and conclude 100% of cases within 12 months, apart from in exceptional circumstances.

Timeliness Target T3 – Work in Progress Levels

LCS to maintain work in progress levels at 3,445 by 31 December 2009.

Recommendation R1 – Systems and Processes

The Law Society to ensure it has sufficient and adequate systems and processes in place to monitor and evaluate LCS performance against the LCS complaints handling plan.

²¹OLSCC Press Notice, 26 February 2009 / The Law Gazette, 27 February 2009

Recommendation R2 – Representative Sampling

The Law Society should ensure that LCS measurement of its quality target is based on a representative sample of cases and not as a sample of file reviews.

Recommendation R3 – LSO Referrals

The Law Society should ensure that LCS continues to aim for the current LSO target set by the Commissioner for 2008/09, and that 78% or more of referrals to the LSO result in LCS handling of the case being upheld.

Recommendation R4 – Staff Resource Management

The Law Society should ensure that LCS takes action to reduce its ratio of support staff to operational staff from 43%, to a figure which is more in line with the PA Consulting ‘Designing the Office for Legal Complaints’ Report recommendation of 15% - 25%.

These targets and recommendations will help ensure that there is no unnecessary build up of work in progress in anticipation of the handover to the OLC. The Commissioner is of the view that significant improvements have been made by LCS and SRA and is aiming to ensure these improvements are not lost during transition to the new bodies. She has therefore set reasonable, realistic and achievable targets and recommendations to assist LCS in delivering the complaints handling service the consumer and profession expects during a period of transition where there may be some upheaval.

Although the Commissioner did not set any targets for SRA she has nevertheless recommended that the Law Society encourages it to aim to investigate and conclude, prepare fully and lodge with the Solicitors


Disciplinary Tribunal, all cases within 12 months. This would be in the best interests of those who have made a complaint who would see that action is taking place sooner, reduce the possibility of the solicitor repeating any subsequently proven misconduct with other clients, and benefit the subject solicitor who at present is waiting too long before their case is determined and, as a consequence, is unable to move forward and learn from the experience.

A Strong Legacy

The LSB is the new, independent body responsible for overseeing the regulation of lawyers in England and Wales. The first Chair, David Edmonds, took up post on 1 May 2008 and the Board became fully constituted on 1 January 2009 with the formal appointment of Chris Kenny as its inaugural Chief Executive. The LSB is currently developing its work programme so that it can assume all of the powers assigned to it under the Legal Services Act 2007 in early 2010.

The new single complaints-handling and consumer redress body, the OLC is set to take over the functions of LCS in 2010. Elizabeth France was appointed the inaugural Chair of the OLC with effect from 1 November 2008. Once the organisation is up and running the Chair will be responsible for the strategic direction of the OLC, maintaining good relationships with stakeholders and ensuring that the organisation is fulfilling its statutory duty as an Ombudsman scheme by satisfying any targets the LSB may set it.

The OLC will administer an ombudsman scheme providing a single point of entry for consistent handling of all consumer complaints about providers of regulated legal services. This will replace the current system whereby complaints against different types of legal professionals are handled by their own representative bodies. On 3 March 2009, the LSB announced Adam Sampson as the Chief Ombudsman designate for the OLC. In this role, he will also serve as Chief Executive of the OLC.



The LSB's stated aim is to reform and modernise the legal services market place by putting the interests of consumers at the heart of the system. This aim has always been at the core of what the Commissioner has tried to achieve with the Law Society.

Before the Commissioner's appointment in 2004 the public's attention was captured by reports of backlogs and the time taken to deal with complaints. In the 2005/06 plan year the Commissioner noted the rising costs relating to payments made by the Law Society to consumers following failures in its own service. The cost to the profession of such payments in that year was £233,646.²² And in 2006 the Commissioner exposed the shortcomings in the Law Society's handling of the Coal Health Compensation cases.

Looking back, the Commissioner is pleased to note that the Law Society is now a world away from the crisis in legal complaints handling within the solicitor's

profession that she inherited five years ago. Both LCS and SRA have shown steady year on year improvement since the Commissioner was appointed and began setting targets for the Law Society. Complaints about the Law Society's 140,000²³ members are now being handled more effectively and efficiently but there is no room for complacency and further improvements by LCS and SRA could and should be made.

There is now a strong platform in performance from which the OLC can build and take the opportunity to aim for excellence. From this platform, the OLC can ensure that consumer confidence is further enhanced and maintained.

The Commissioner is appreciative that the Law Society, LCS, SRA and their Boards have worked with her in making the changes that have benefited so many consumers and solicitors.

²²Legal Services Complaints Commissioner Annual Report 2005-06

²³Source: Law Society REGIS database Version issue date: 31 January 2009

4 The Commissioner's Audit Findings

OLSCC conducts independent audits and investigations as part of its mandate to assure the Commissioner that performance improvement is being made in the handling of consumer complaints.

The Research and Investigations team collects detailed information to assess the application and appropriateness of LCS and SRA policies and processes, to provide feedback to the Law Society and to inform the Commissioner's future recommendations and targets.

OLSCC's powers to investigate have been an instrumental tool in successful regulation of the Law Society's complaints handling functions. The ability to audit live and closed case files has given the Commissioner a strong evidence base on which to set targets and make recommendations for improvement.

A Change in Focus

When the Commissioner was first appointed in 2004 there was much scope for improvement in complaints handling in the Law Society. There were serious concerns about customer care with one in three consumers remaining dissatisfied with the Law Society's handling of their case.²⁴ Case file analysis at the time discovered undue delay in over half the sample examined and there was a backlog of older cases, with hundreds over 18 months old. Because performance was so poor the Commissioner had no option but to go 'back to basics' and tackle the fundamental issues associated with LCS and SRA work processes based on LCS and SRA's application of their published policies and adherence to their own customer service standards to bring about improvement in the Law Society's performance.

In 2007 the Commissioner acknowledged that both LCS and SRA had made improvements overall in the speed with which consumer complaints were now being handled. She recognised that it was time to shift the focus from individual process based

measures to a more holistic approach which placed more emphasis on the determination of the quality and impact of the caseworker's decision-making on the whole consumer experience in order to secure a fairer and more reasonable outcome for each person that complained to LCS or SRA.

Since then the Commissioner's approach has evolved further and this plan year has seen a shift away from the more formal auditing process to a more collaborative approach concentrating on a transfer of skills through increased partnership working with LCS and SRA managers, internal auditors, team leaders and coaches. Activities engaged in have included the sharing of information; highlighting areas of good practice; suggesting corrective action and influencing current working practices and assessment standards to facilitate continual improvement to ensure that LCS and SRA are in the best position possible when the new OLC is established.

LCS Cross Consistency Exercise

In July 2008 OLSCC auditors completed a targeted exercise to ensure LCS had a common understanding of the way OLSCC measures quality in casework to help it better prepare for the Indicative Quality Target Audit and Year End Quality Target Audit due to take place in November 2008 and April 2009 respectively.

Using the agreed criteria for assessment established in the Quality of Outcome Audit in 2007, OLSCC auditors examined a small number of files that had been pre-selected and pre-audited by LCS. The results were compared and any differences in assessment were discussed. This enabled LCS and OLSCC to agree the criteria for assessment and ensured LCS understood how the criteria would be applied and how the effect on the outcome for the consumer would be considered.

²⁴Law in Order, LSCC Annual Report 2004-2005

SRA Quarterly Audits

The OLSCC Research and Investigations team conducted a series of shadow audits during 2008/09 to assess SRA performance against the target set by the Commissioner, but using SRA's own quality measure as agreed by the Commissioner earlier in the year. The target stated that at least 90% of cases closed should show fair and reasonable regulatory outcomes with no serious administrative failings.

Performance against this target was based on a combined measure of quarterly audits of case files, the feedback received from Adjudicators and the Legal Services Ombudsman Index to ensure a fair, reasonable and proportionate outcome.

The audits took place in July and October 2008, and in January and April 2009. SRA reviewed files selected on a random sampling basis to establish the percentage of files in that sample that met the target. The same files were also reviewed by OLSCC auditors. It was agreed that where there were different results, the Commissioner would use OLSCC findings to measure achievement against target. The on-site post audit feedback formed an important aspect of these audits to ensure that where conflicting results had been found, the reasons were clear to SRA.

OLSCC auditors reviewed a total of 360 cases, spread equally over four separate audits. The end of year results showed that SRA had not met this element of the Commissioner's target, achieving only 68% against a target of 90%. This is a very disappointing result and is due mainly to delays in SRA's allocation process in the final quarter of the plan year.

Overall, this poor result means that not all consumers are getting the fair and reasonable outcome they deserve, and the actions of some solicitors will go unchecked, affecting their future performance. The

feedback provided by the auditors to SRA will enable it to implement corrective action in the areas that require it the most.

Audit Activity from 1 April 2008 to 31 March 2009

The audits undertaken in 2008/09 were:

- LCS Coal Health Compensation Scheme Audit;
- LCS Quality Indicative Target Audit;
- LCS Quality Year End Target Audit; and
- SRA Coal Health Compensation Audit.

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

Coal Health Compensation Scheme Audits

A major outcome of the Commissioner and her Office's work to date has been the improved handling by the Law Society of Coal Health Compensation complaints. The Legal Services Ombudsman's determinations and Special Report published in April 2006 first set out the extent of some of the misconduct being perpetrated by solicitors. The issue of the detriment, experienced by some former mineworkers and their dependents that were disadvantaged by their solicitor, has attracted much publicity since then.

"I was encouraged to find that Zahida Manzoor was robust in her criticism of lawyers and the Law Society"²⁵

²⁵Lord Lofthouse of Pontefract writing in the Times, May 2006

4 The Commissioner's Audit Findings

The Commissioner and her Office also brought to light another layer of injustice experienced by these consumers (who had been classified as “vulnerable” by the Law Society itself) namely that many miners who complained to the Law Society were further disadvantaged by the way their complaint was then dealt with.

An initial audit was undertaken in 2006²⁶ and a number of recommendations were subsequently made to LCS following that audit. These recommendations included:

- revisiting those cases where there has not been a full investigation into the Inadequate Professional Service issues and where the miner has not been fully advised of their options for complaint resolution;
- applying LCS policies consistently to ensure that each miner's complaint is handled individually and that miners receive fair and equal treatment regardless of which caseworker handled their complaint;
- carrying out a full investigation into both service and conduct issues presented by miners; and
- providing miners with sufficient information to enable them to make an informed choice for the resolution of their complaint.

Since this audit took place miners' complaints have continued to be closely examined by OLSCC due to the nature of the complaints, the particular conduct issues they raise and the Law Society's own acknowledgement of the vulnerability of this group of complainants. These issues, together with the high volume of complaints received from miners and their families (over 3500 raised by June 2008) has meant that there has been significant interest by the public, MPs and others in how these complaints have been handled.

A further audit completed in 2007 found that although some improvement had been made in the handling of Coal Health Compensation complaints since the 2006 audit, there were still too many complaints that were not being handled

properly. Specifically, there were issues regarding the consistency and accuracy of some information being given to miners by LCS caseworkers and also concerns regarding the overall outcome of some complaints.

The findings from the 2007 audit were highlighted by the Commissioner in a Special Report: *Investigation into the handling of Coal Health Compensation Scheme complaints*,²⁷ which was published in January 2008.

“We urge the Law Society and solicitors themselves to act on the recent findings of the Legal Services Complaints Commissioner and redress any alleged misconduct as a matter of urgency.”²⁸

Within this Report, the Commissioner set out evidence of shortcomings in the Law Society's handling of cases. It was clear to see that these were relatively straightforward complaints many with similar, if not identical issues. However, as reported by the Commissioner at the time, “different outcomes are being achieved for miners depending on a bewildering array of variables”. These variables included the caseworker handling the complaint and the co-operation or otherwise of the firm being complained about. The consequence was that some miners were receiving very much lower amounts of redress than others with similar circumstances.


The inequitable outcomes for consumers were, believed the Commissioner, capable of being addressed by swift action on the part of the LCS management and Board. She therefore urged the Law Society to address the eleven issues identified in the Special Report, before the end of the 2007/08 plan year (by 31st March 2008), including:

- carrying out a full investigation on all future complaints ensuring that all options for resolution,

²⁶http://www.olscc.gov.uk/docs/coal_health260706.pdf

²⁷http://www.olscc.gov.uk/docs/miners'_special_report.pdf

²⁸http://www.olscc.gov.uk/docs/miners'_special_report.pdf



including adjudication, are explained to each miner prior to conciliation;

- ensuring existing adjudicated decisions are used as the starting point to put to solicitors and miners for complaints settled through conciliation;
- ensuring awards are consistent for miners who have similar complaints; and
- correctly explaining to all miners and/or their representatives the difference between a deduction of fees from a Coal Health Compensation award and an award for the poor service of the solicitor.

In view of the special circumstances surrounding this vulnerable group of consumers, the Commissioner also set LCS a target for some cases to be re-opened and mistakes rectified.

By setting this target, the Commissioner has facilitated a repayment by the Law Society of the difference between any conciliated settlement the miner received as a result of their complaint to LCS and the amount of the deduction made by their solicitor from the compensation award. The average award made to these affected miners was £229, with individual payments up to £5,625.

Whilst the Commissioner would have preferred LCS to compensate these miners for its failure to conciliate the cases effectively, in addition to the payments made, she is nonetheless pleased to note that millions of pounds have now been paid back to miners and their families since 2006.

LCS Coal Health Compensation Scheme Audit 2008

The latest audit took place in July 2008. A total of 247 cases were examined.

The audit specifically measured how LCS was addressing the issues raised in the Commissioner's

Special Report. However, because it would not have been appropriate to review any cases that had already been audited previously or cases that were received before the Special Report was published, the 2008 audit was restricted to those cases that had both opened and closed within a 5 month period, 1 February and 30 June 2008. This means that the findings do not represent how all miners' cases have been, or are being presently handled, by LCS.

The findings gave the auditors some concerns about the time taken to provide adjudication decisions in respect of one particular firm that had refused to conciliate, however, overall this audit found that in the cases examined, LCS had, in the main, addressed the issues raised by the Commissioner in her Special Report. This is encouraging. The Commissioner's intervention in this important issue which was a matter of great public concern, has ensured that better, more timely and transparent outcomes have been achieved for complainants. Also there has been more consistent decision making and disciplinary actions reaching conclusion – a situation that was not evident when the Commissioner highlighted these issues in 2005.

Achieving this degree of success has not been an easy task but by continuously applying pressure through regular and detailed investigations the Commissioner has identified weaknesses and made recommendations for improvement. The Commissioner's work has enabled LCS to improve the way it handles miners' complaints and has facilitated the refund of millions of pounds of inappropriate deductions and compensation payments for the distress and inconvenience caused to thousands of vulnerable miners and their dependents.

4 The Commissioner's Audit Findings

“Both the Department of Energy and Climate Change and the Ministry of Justice have welcomed the recent report by the Legal Services Complaints Commissioner on the handling of coal health compensation claims. The report highlighted that overall LCS had improved the way it handled miners' complaints between February 2008 and 30 June 2008 and had taken note of the 11 issues raised in the LSCC's earlier report of January 2008.”²⁹

There is, however, no room for complacency. There is still more to be done including ensuring that the consistency continues and that further cases of misconduct are referred by SRA to the Solicitors Disciplinary Tribunal and dealt with without undue delay.

LCS Quality Indicative Target Audit

In October 2008, OLSCC Research and Investigations team completed an indicative audit of LCS performance against the quality target set by the Commissioner, for the period 1 April to 30 September 2008. This target required LCS to achieve a reasonable outcome and service, without significant failings, on at least 90% of cases closed. A total of 354 service files, representative of the age profile for the 6 month period, were selected for audit.

The ITA results showed that LCS had, in the period 1 April to 30 September 2008, achieved a reasonable outcome for the consumer, without any significant failings, in 92.4% of the cases audited.

These results provided the Commissioner and the LCS with an indication of achievement at the half way stage, for the full 2008/09 performance year. Whilst the audit found a number of good examples of casework, the findings also gave rise to some concerns, including:

- a lack of consistency in the application of the new Complaints Acceptance Policy;
- deficiencies in the current file designation process;
- inadequate investigation carried out by caseworkers; and
- delays in allocation and progression of files.

The Commissioner highlighted these findings to LCS and urged it to focus its efforts on improving the failings identified from this audit to put it in a much stronger position for the Year End Target Audit.

²⁹Lord Hunt of Kings Heath, written Parliamentary answer 4 March 2009



LCS Quality Year End Target Audit

OLSCC Research and Investigations team completed a Year End Target Audit (YETA) of LCS performance in April 2009. The YETA measured the extent of LCS's operational achievement against the quality target set by the Commissioner for the full 12 month period ending 31 March 2009.

Information from a total of 228 files, distributed proportionately across all age groups and sample period, together with information from 145 cases that were audited at ITA (these are cases that had been randomly selected for both ITA and YETA and where the outcome had remained unchanged), informed the results which were used to provide the Commissioner with a final assessment of the Law Society's annual performance.

The YETA results showed that LCS had, in the period 1 April to 31 March 2009, achieved a reasonable outcome for the consumer, without any significant failings, in 95% of the cases audited. This means that LCS has met the Commissioner's target of 90%.

Although the findings showed that 5% of all complaints about solicitors either had failings that were considered to have resulted in a negative impact on the outcome for the consumer either during resolution of the complaint or on its conclusion, or the outcome itself was unreasonable, the audit found some good examples where the caseworkers had made good decisions and provided a fair and reasonable outcome for the consumer without any significant failings.

The results represent a significant improvement for the Law Society compared with the results obtained from the Quality of Outcome Audit in 2007 which found that there was a prompt and competent investigation with a reasonable outcome that met the needs of the consumer in only 74% of LCS cases examined.

SRA Coal Health Compensation Audit

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

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

The Commissioner therefore asked her audit team to establish how SRA was investigating the conduct matters identified in complaints related to the Coal Health Compensation Scheme. Specifically, the Commissioner wanted the auditors to investigate how SRA had carried out its risk-based investigations; the information it had obtained; how it had determined outcomes in relation to the level of breach or misconduct found; and whether sanctions had been consistently and appropriately applied.


Given the high profile of coal health cases, the Commissioner considered it to be in the public

interest to verify that these cases are being handled appropriately and consistently and that miners' concerns are receiving due attention by SRA.

The provisions in s52(2)(a) of the Access to Justice Act 1999 enabled the Commissioner to require the Law Society to provide information, or make reports about the handling of complaints about its members regardless of whether these were being handled by the LCS or SRA. It also enabled the Commissioner to investigate the handling of complaints. In the Commissioner's view, this audit was within the scope of those powers.

A draft of the audit plan was sent to SRA in February 2008. SRA responded, explaining that, in SRA's opinion, some of the information sought under the draft audit plan concerned regulatory investigations rather than individual complaints from individual complainants and therefore went beyond the Commissioner's statutory powers at s52(2)(a) of the Access to Justice Act 1999.

Following correspondence between the Commissioner and SRA in March and April 2008, OLSCC team made further requests for information and SRA provided prompt responses including information regarding outcomes of cases that had been referred to the SDT. SRA withheld further information sought by OLSCC, which concerned those firms against whom internal sanctions had been applied. SRA insisted that it needed to seek permission of the firms concerned before it



agreed to disclose the information. The process of seeking permission from the firms against whom sanctions had been applied took several months and substantially delayed the conduct of the audit. The Commissioner remains of the view that this delay was unnecessary.

However, having consulted the relevant firms and following correspondence between the Commissioner and the Chair of SRA Board in the autumn of 2008 SRA provided information in the autumn and winter of 2008 on the firms against whom internal sanctions had been applied. In response to a further request from OLSCC in February 2009 for information on the reasoning behind these decisions, SRA also provided information in March 2009 on the aggravating and mitigating factors it had taken into account when deciding on an appropriate sanction in each case it had concluded.

In accordance with the Legal Services Act 2007, the Commissioner's role and the work of OLSCC will shortly be coming to an end following the establishment of the Legal Services Board and shortly the Office for Legal Complaints. As the Commissioner's powers have been amended to reflect her changing role as the Legal Reforms progress, the power to audit is no longer available to her. The delay in receiving information from SRA covering all its Coal Health Compensation decisions has meant that OLSCC is no longer able to conduct

the audit necessary to independently verify the information supplied.

Although the Commissioner has some concerns about variations in the outcome achieved by SRA in respect of different solicitors, the evidence supplied by SRA suggests that the reasons for these variations relate to legitimate aggravating or mitigating factors. On the basis of the information provided, the Commissioner is able to give a qualified assurance that SRA appears to be fulfilling its regulatory role in relation to miners' complaints effectively. She is unable to give any assurances to stakeholders and the public that OLSCC has verified the action taken by SRA.

The Commissioner is pleased to note the recent successful work of the SRA in preparing cases for the Solicitors Disciplinary Tribunal (SDT). A number of cases have already been dealt with by the SDT and sanctions have been imposed in several cases. Although the Commissioner acknowledges that these cases are complex, she continues to have concerns over the length of time it has taken SRA to prepare cases for the SDT, particularly as much of the evidence against the solicitors concerned is not new. She is looking to SRA to conclude its investigations quicker, so that the appropriate sanctions can be imposed by the SDT and, where a solicitor should not be practising they are 'struck off' the solicitors' Roll sooner.

5 Activity of the Commissioner's Office

Overview

OLSCC comprises a small number staff who undertake a wide variety of functions in order to support the Commissioner's work and deliver a high standard of customer and business services. Since her appointment in 2004, the Commissioner has placed great emphasis on recruiting, developing and retaining this small but highly skilled staff team who have contributed a range of expertise to assist her role as regulator. At its peak, OLSCC had 21 staff and expenditure of £1.66 million – regulating the Law Society's complaints handling functions which at a comparable time had a budget of £36.122 million.³⁰

The Commissioner has used resources flexibly, and has brought in outside resources where needed (e.g. specialist modelling and operational research capability) whilst overall keeping OLSCC a lean and efficient regulator. The organisation has provided good value for money by effective management and by adhering closely to the statutory remit has delivered year on year improvement in the Law Society's complaints handling performance, while reducing its overall resources and giving efficiency savings. OLSCC has realised savings of over £395,000 (23%) when compared to its peak expenditure in 2007/08.

As an organisation OLSCC is committed to:

- ensuring that it is independent and impartial in its decisions, working with honesty, integrity and fairness;
- ensuring it is a quality employer, supporting professional development and training to help staff meet business goals and objectives;
- having a culture that is open, builds trust and encourages personal responsibility; and
- ensuring that the interests and diversity of all staff are respected.

OLSCC has met the 2008/09 objectives as published in its business plan. This included continuing to maintain an effective relationship with the Law Society, LCS and SRA and productively encouraging and supporting improvements in their complaint handling. OLSCC's own Key Performance Indicators were also met.

The Commissioner has, from the outset been fully accountable and transparent in relation to all decisions taken under her statutory powers. The reasoning behind all decisions have been published on OLSCC's website and all decisions have been justified with no legal challenges.

³⁰Legal Services Complaints Commissioner Annual Reports 2006-2007 and 2007-2008



Closure of OLSCC and Transition Planning

The pending closure of the office has been thoroughly and sensitively managed, with regular communications with staff and the development of a transition plan that identifies when specific job roles are to end. There has also been the need to suitably re-plan work activity as some staff leave the office to move to new jobs. This includes evaluating current skills and providing appropriate training to equip staff to undertake new roles within the office.

The Commissioner's office has also commissioned appropriate learning and development activities in order to support staff for the future job market. The office has also established appropriate links with Government Departments and other employers to further assist OLSCC staff in finding alternative employment when the office closes.

The requirement to continue to deliver against OLSCC business objectives has had to be carefully balanced with planning for closure and supporting staff in finding new roles for themselves outside of OLSCC. Naturally this has led to some uncertainty for staff but despite this the normal high standards of delivery have been maintained.

This period has been a challenge for all staff. However, by prioritising work, planning ahead and re-organising roles in order to maintain performance levels the Commissioner has been able to release 9 staff over the year.

Office Related Matters

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

The office has also continued to employ staff through the Modern Apprenticeship Scheme and supported staff in undertaking NVQs. Staff have also engaged with the local community by supporting fund raising for a local hospice.

OLSCC actively promotes and respects diversity within the organisation, with its stakeholders and consumers, and in the wider business community. The office has a diverse workforce and promotes equality of opportunity for all its people. Individual staff continue to participate in the MoJ's staff network groups as part of the Commissioner's commitment to diversity, including the Network for Caring, PROUD (People from diverse Racial Origins Uniting the Department) and the Rainbow Network.

Environmental, Social and Community Matters

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

OLSCC staff are able to participate in the Give as You Earn payroll-giving scheme, meaning that any employee can donate tax-free to any charitable organisation in the UK directly from their payroll. Staff have also raised funds during the year for several charities through a number of events including Jeans for Genes day and Pink Day. The office has also supported a local hospice by providing voluntary help.

Stakeholder Engagement

Since the establishment of OLSCC, there has been a strong focus on involving stakeholders in the work of the Office and ensuring that a wide range of input has been considered and taken into account in targeting improvement within the Law Society. Engagement with stakeholders has taken place at different levels including accepting feedback on levels of service directly from individual consumers and consulting on target areas with various stakeholder groups.

Reflecting the emergence of the new regulatory regime created by the Legal Services Act 2007, the Commissioner has this year provided views where requested through responding to consultations including the LSB's first Business Plan and the Lord Hunt Review of Legal Regulation commissioned by the Law Society.

Contact with Consumers and Interested Parties

OLSCC offers a range of methods for consumers and others to provide feedback on their experiences of service from solicitors or the Law Society. There is a dedicated consumer telephone line and written correspondence can be provided by post or via e-mail. OLSCC website provides information on OLSCC role and responsibilities and includes copies of published documents such as annual reports, press releases and other news.

An Independent Advisory and Consumer Board

OLSCC's governance and decision-making has been enhanced by access to an expert and diverse Advisory and Consumer Board. Board members bringing individual perspectives from business, social entrepreneurship, legal firms, the regulatory environment and consumer organisations have been valuable in advising the Commissioner's work. Board members have added an additional level of both challenge and support to the Commissioner and her Senior Management Team since OLSCC's establishment in 2004 – and this high calibre board has served unremunerated throughout this period.

Board members have not only given their personal time generously, but have also provided organisational facilities, for example hosting board meetings. The Commissioner records her appreciation and gratitude for the Board's commitment and support.

OLSCC Advisory and Consumer Board Members



Colin Brown – is Policy Director at the Office of Fair Trading (OFT). He joined the OFT in 2003 after three years as Chairman of the Financial Services Consumer Panel. He also worked as an independent consultant specialising in consumer policy and research, both in the UK and internationally. Before that he was Deputy Research Director at the Consumers' Association and Senior Fellow at the Policy Studies Institute.



Rob Chester – is currently Head of Risk and Deputy Company Secretary for Asda Stores Limited. He has an extremely broad role to assess and adequately control the risks that exist in a twenty first century retailer. Prior to joining Asda, Rob spent ten years at Tesco. Whilst progressing his retail career Rob also studied for a Law Degree and latterly the Legal Practice Course.



The Countess of Eglinton and Winton – has been involved as a fundraiser for the NSPCC since 1960, becoming a Trustee 1993/2003. She also served as a Trustee of the NSPCC Pension Scheme. Marion was a Governor of the Royal Masonic School for Girls 1992/1998. She is currently fund raising and organising events for Leonard Cheshire Scotland.



Louise Hanson – has worked at Which?, the largest consumer organisation in Europe, since February 2000. She joined as a Senior Public Affairs Officer and became Head of Campaigns in July 2003. Previously Louise worked in campaigns and public affairs at Oxfam and Townswomen's Guilds.



David Harker OBE – has been Chief Executive of Citizens Advice since 1997. He joined Citizens Advice from Sense, the national disability charity, where he was managing director. His earlier career included management consultancy, running an inner city charity, working for a council of voluntary service, as a policy analyst for a local authority and a research and press officer for a trade union. David has an MBA from London Business School and an MA in social policy.



Malcolm Hurlston – is a social entrepreneur who has founded and chairs a number of charities and non-profit making organisations. This includes the Foundation for Credit Counselling, Britain's leading debt charity, and the Registry Trust, which registers judgement, fines and decree information in the UK and Ireland.

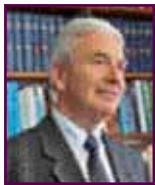
5 Activity of the Commissioner's Office



Clare Montgomery QC – (associate basis member) – a Deputy High Court Judge since 2003. Clare is a highly respected specialist in criminal law, perhaps best known for her work on ‘white collar crime’ cases, such as Guinness and Maxwell.



George Seligman – a partner with Slaughter and May, a leading international law firm with a world-wide corporate, commercial and financing practice. George specialises in financing, corporate recovery and insolvency work, and also has a general commercial practice. He has acted for borrowers and lenders on a wide range of financing transactions including securitisations, acquisition finance, syndicated and bilateral loans and structured finance.



Professor Avrom Sherr – is Director of the Institute of Advanced Legal Studies and the Woolf Professor of Legal Education at the Institute. His main areas of interest have been the development of legal education, the sociology of the legal profession, ethics in professional work and the provision of legal services. He was a member of the Lord Chancellor’s Advisory Committee on Legal Education and Conduct; and of the Race Relations and Equal Opportunities Committees of the Law Society of England and Wales. He also acts as a consultant to government and professional bodies in relation to access to justice and professional training and discipline.



Steven Silver – is Head of Legal Services and Deputy Secretary of United Co-operatives Limited, the largest independent Co-operative Society in the UK. Steven was educated at Esher County Grammar School and the University of Durham where he obtained a Joint Honours degree in Law and Politics. Following his successful completion of the Law Society Finals Examination in 1983, Steven went on to work for a number of law firms including Sugden & Spencer Solicitors (1987/1993) and Radcliffes LeBrasseurs Solicitors (1993/1996) where he was a partner.



Stephen Boys Smith – a former senior civil servant with extensive experience of working closely with Ministers and managing and bringing change into large organisations. He is presently Joint Secretary to the Independent Monitoring Commission, Northern Ireland.



Michael G Wilson – has worked as a Lawyer for the Department of Transportation in Washington D.C. before joining the law firm of Surrey and Morse. He became a partner of this firm in 1972. In 1974 Michael left the firm to join EON Productions and is producer for the Bond films.

External Communications

The Commissioner has given a number of public speeches at various events including the Legal Services Research Centre's biennial international research conference at the Royal Naval College in Greenwich, London at which the Commissioner chaired a discussion on quality and conduct in relation to regulating legal services.

She also gave a speech at a lecture jointly hosted by Leeds Law School and Leeds Metropolitan University's Centre for Research into Diversity in the Professions. At this event the Commissioner addressed concerns that there is a lack of diversity in the legal profession. She said that she saw the Legal Services Act 2007 as a real opportunity for positive change, with the chance to introduce new business structures and encourage more family-friendly working patterns.

"Embracing diversity makes good business sense. If firms are to attract and retain the best staff then they must embrace society as a whole."³¹

The Commissioner was also part of the British Legal Awards Judging Panel and during the year has met with officials from Kenya and Japan. She was also a guest speaker at the Better Access to Justice Symposia held in Istanbul in February 2009.



The Commissioner gave a lecture at the event jointly hosted by Leeds Law School and Leeds Metropolitan University's Centre for Research into Diversity in the Professions on 10 December 2008

Budget and Funding of OLSCC

Over the 2008/09 year the Commissioner continued to review her Office requirements on a regular basis in order for it to continue its important work in regulating the Law Society's complaints handling.

OLSCC budget was accurately and effectively managed, in line with MoJ policy. The original budget estimate for 2008/09 was £1.56m. This was closely monitored and revised throughout the year, with the total spend at year end being £1.27m. This overall reduction was mainly related to reduced salary costs as a result of 9 staff leaving the office during the year.

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

³¹Diversity in the Legal Profession, 10 December 2008, www.leedsmet.ac.uk

5 Activity of the Commissioner's Office

The office is therefore partly funded by the Law Society. Of the total expenditure of the office, £856,438 relating to staff costs and other direct costs was recovered from the Law Society by the Lord Chancellor as permitted under Schedule 8 of the Access to Justice Act 1999, leaving net expenditure of £409,210 that was funded by MoJ.

At the year-end 31 March 2009, this income had not yet been received in cash from the Law Society and therefore it is reflected in the balance sheet as accrued income. Since these amounts are paid directly to MoJ, there is a corresponding creditor to MoJ. OLSCC had net assets of £68,110 in the balance sheet at the year-end.

OLSCC operates a comprehensive budgeting system encompassing compliance controls, with a review and reporting mechanism to provide assurances as budget holder to MoJ.

The Commissioner is committed to the prompt payment of suppliers of services to OLSCC. Payments are normally made as specified within any contract or at least within 30 days of an invoice. OLSCC adheres to MoJ's "Risk Management" policy and appropriately identifies, assesses controls and reports risks.

OLSCC has produced a set of annual accounts for 1 April 2008 to 31 March 2009. These accounts have been audited by the Comptroller and Auditor General, who has been appointed by the Secretary of State for Constitutional Affairs and the Lord Chancellor in accordance with the Access to Justice Act of 1999.

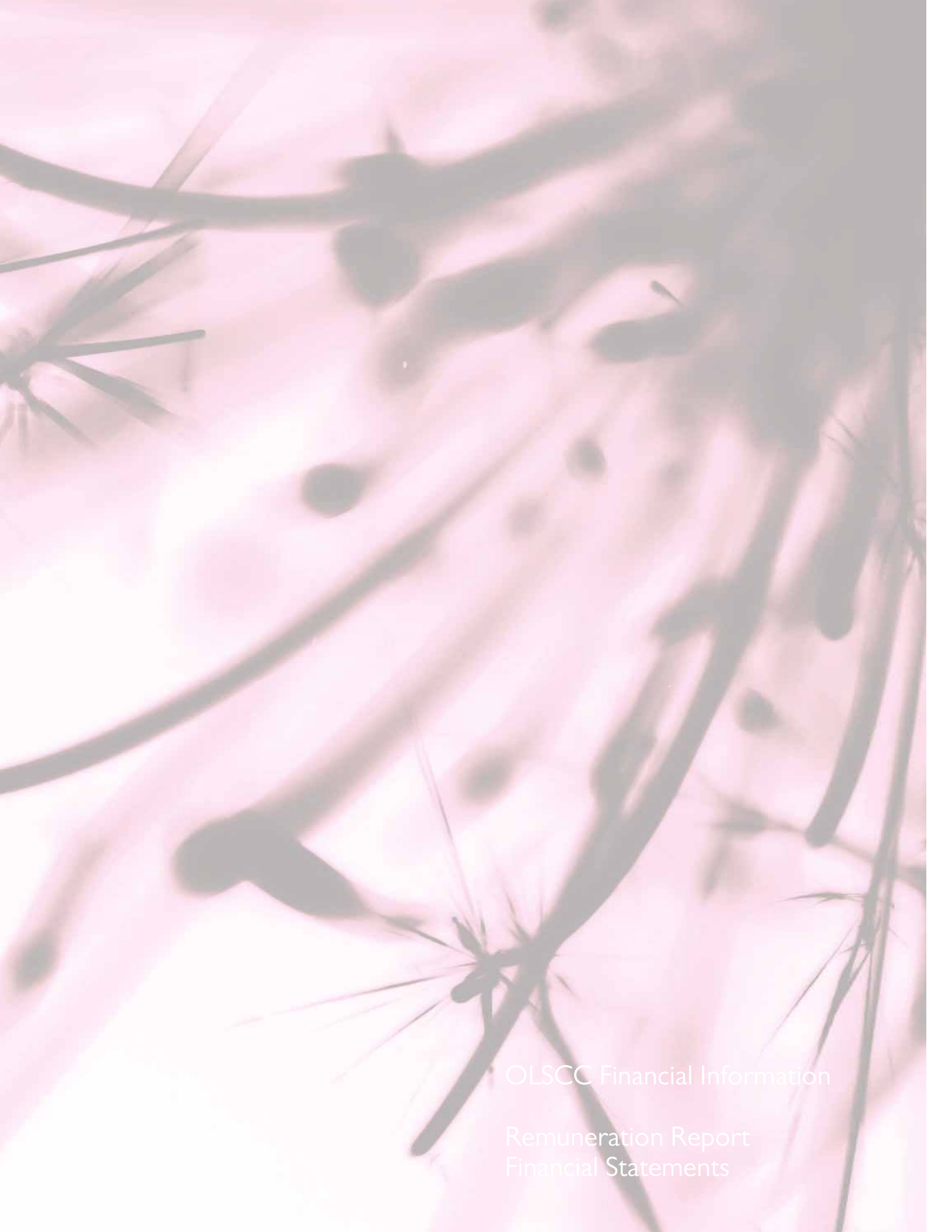
As far as both the Accounting Officer and the Commissioner are aware, there is no relevant audit information of which auditors are unaware. The Accounting Officer and Commissioner have taken all the steps that they ought to have taken to make themselves aware of any relevant audit information and to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

Going Concern

The Legal Services Act (2007) fundamentally changes the way that legal services will be regulated in England and Wales. The Legal Services Board and the Office for Legal Complaints are both expected to be fully functional in 2010. OLSCC will close on 31 March 2010 and activities in relation to legal complaints will be handled by the new organisations, therefore, in accordance with the Financial Reporting Manual the accounts have been prepared on a going concern basis. Funding through to closure has been agreed with MoJ and the Department continues to settle all of OLSCC's financial transactions with funds voted by Parliament.

Pension Liabilities

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



OLSCC Financial Information

Remuneration Report
Financial Statements

Remuneration Report

Auditable Sections

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

Remuneration Policy

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

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

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

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

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

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

Service Contracts

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

The Commissioner holds the position concurrently with that of the Legal Services Ombudsman. She has been reappointed as Commissioner from 3 March 2009 until 2 April 2010 and as Legal Services Ombudsman from 3 March 2009 until 2 March 2011.

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

Salary and Pension Entitlements

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

Remuneration

	2008-09 £'000	2007-08 £'000
Members	Salary	Salary
Zahida Manzoor	45-50	45-50

Salary

'Salary' includes gross salary; performance pay or bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and

retention allowances; private office allowances; ex-gratia payments and any other allowance to the extent that it is subject to UK taxation.

Pension Benefits

Name	Accrued pension at age 60 as at 31/03/09	Real increase in pension at age 60	CETV at 31/03/09	CETV at 31/03/08	Real increase in CETV
	£'000	£'000	£'000	£'000	£'000
Zahida Manzoor	10-15	0-2.5	180	140	24

Note that Cash Equivalent Transfer Values (CETV) figures may be different from the closing figure in last year's accounts. This is due to the CETV factors being updated to comply with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008.

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

Civil Service Pensions

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

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years’ pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits in respect of service before 1 October 2002

calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member’s earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is up rated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers.

The employee does not have to contribute but, where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer’s basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

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

Cash Equivalent Transfer Values

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

Zahida Manzoor CBE
Legal Services Complaints Commissioner

Date: 24 June 2009

Real Increase in CETV

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

Suma Chakrabarti KCB
Accounting Officer

Date: 25 June 2009

STATEMENT OF ACCOUNTING OFFICER'S AND COMMISSIONER'S RESPONSIBILITIES

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

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

The Secretary of State for Justice and Lord Chancellor has appointed the Legal Services Complaints Commissioner for England and Wales (Commissioner) to oversee the daily operations of the Office of the Legal Services Complaints Commissioner (OLSCC). Details of the division of responsibilities are set out in a Memorandum of Understanding between the MoJ (formerly the

Department for Constitutional Affairs (DCA)) and OLSCC. This appointment does not detract from the Permanent Secretary's overall responsibility as Accounting Officer for the accounts.

Under the Access to Justice Act 1999, the Secretary of State and Lord Chancellor has directed the Commissioner to produce accounts for the financial year ending 31 March 2009.

These accounts are prepared on an accruals basis as at 31 March 2009 and give a true and fair view of the state of affairs of OLSCC and the net operating cost and cashflow for the financial year.

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

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

STATEMENT ON INTERNAL CONTROL

Scope of responsibility

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

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

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

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of MoJ policies, aims and objectives, to

evaluate the likelihood of those risks being realised, and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in OLSCC for the year ended 31 March 2009, and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

Capacity to handle risk

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

The MoJ Risk Management strategy, policy and framework issued in July 2008 is available to all staff on the MoJ Intranet. This sets out the MoJ attitude to risk in the achievement of its policies and objectives and provides guidance on the process of identifying, assessing and managing risk.

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

The risk and control framework

As OLSCC is an Associated Office of the MoJ, its risk and control framework are part of MoJ policy. The key elements of OLSCC risk management strategy to be fully implemented for identifying, evaluating and controlling risk are as follows:

- system of analysis and reporting (based on MoJ policy and framework) that identifies risk to objectives, risk impact and likelihood, current and planned mitigating action, risk status, risk judgement or appetite and individual risk owners, which forms the basis of the Risk Register and is escalated quarterly to the Director General, Access to Justice Group;

OLSCC Financial Information

- Senior Management Team reviews risks regularly, and there are planning workshops for all staff to assist with the identification and evaluation of risks to objectives;
- Risk Register covers all OLSCC activity and is reviewed by the OLSCC Senior Management Team. Access to Justice Group then review the register, escalating any significant risks for inclusion in the MoJ Corporate Risk Register;
- quarterly certification by the Commissioner to the Director General, Access to Justice Group of risk management in OLSCC;
- Head of Corporate Services is the risk co-ordinator and is on the OLSCC Senior Management Team; and
- risk identification, evaluation and management as an integral part of the planning process for delivery of its objectives.

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

- business planning, which is discussed, agreed and reviewed by the Director General, Access to Justice Group;
- comprehensive budgeting systems with an annual budget, which are reviewed and agreed by the CMB;
- regular reviews by the CMB of periodic and annual financial reports, which are prepared to indicate financial performance against the forecasts;
- target setting to measure financial and other performance;
- a formal system of financial compliance controls, consisting of core control checks with an audit trail of evidence, and a review and reporting mechanism to provide assurances from the Director of Operations (as Budget Holder), on a quarterly basis, that internal financial controls are in place and operating effectively;
- a published MoJ fraud policy, with effective capability to investigate incidents of fraud, including

a cadre of trained staff;

- an MoJ whistle-blowing policy for confidential reporting of staff concerns;
- a Business Continuity Plan for OLSCC, which continues to be refined to ensure that key activities can continue effectively following a disruption;
- compliance with the MoJ Statement of Intent on Information Assurance and conforming with the standards and codes of practice embodied in the BS ISO/IEC 27000 series, which provides an internationally recognised code of practice for information security management, and the Manual of Protective Security.

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

During 2008/09 OLSCC has also engaged in influencing the performance of the Law Society to improve its handling of consumer complaints through:

- setting clear and reasonable performance targets for the Law Society for the 2008/09 year and actively monitoring and evaluating progress against these;
- a programme of audits by OLSCC Research and Investigations team that have supported improvements in the quality of complaint handling through reviews and feedback sessions;
- agreeing additional means to improve the efficiency and effectiveness of complaint handling in order to benefit the consumer;
- production of an Annual Report detailing the Commissioner's assessment of the Law Society's performance; and
- the Legal Services Complaints Commissioner's Advisory and Consumer Board, which provides support for the Commissioner.

Review of effectiveness

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

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

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

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

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

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

This statement applies to OLSCC. The Statement on Internal Control for MoJ as a whole will be available from the Stationery Office when MoJ's 2008/09 Accounts are published later this year.

Zahida Manzoor CBE
Legal Services Complaints Commissioner

Suma Chakrabarti KCB
Accounting Officer

Date: 24 June 2009

Date: 25 June 2009

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

I certify that I have audited the financial statements of the Office of the Legal Services Complaints Commissioner (OLSCC) for the year ended 31 March 2009 under the Access to Justice Act 1999. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer, Commissioner and Auditor

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

My responsibility is to audit the financial statements and the part of the Remuneration Report to be

audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

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

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

I review whether the Statement on Internal Control reflects OLSCC's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of OLSCC's corporate governance procedures or its risk and control procedures. I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises *Activity of the Commissioner's Office*. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

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

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

Opinions

Audit Opinion

In my opinion:

- the financial statements give a true and fair view, in accordance with Access to Justice Act 1999 and directions made thereunder by the Secretary of State and Lord Chancellor with the approval of HM Treasury, of the state of OLSCC's affairs as at 31 March 2009 and of its income, expenditure and cash flows for the year then ended;

- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Access to Justice Act 1999 and directions made thereunder; and
- information included within the Annual Report, which comprises the *Activity of the Commissioner's Office*, is consistent with the financial statements.

Audit Opinion on Regularity

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

Report

I have no observations to make on these financial statements.

Paul Keane

Director Justice Financial Audit For Comptroller and Auditor General

National Audit Office

151 Buckingham Palace Road

Victoria

London

SW1W 9SS

Date: 26 June 2009

OPERATING COST STATEMENT FOR THE YEAR ENDED 31 MARCH 2009

	Notes	2008/09 £	2007/08 £
Income	2	(856,438)	(1,096,922)
Staff costs	3	724,082	875,884
Other direct costs	4	178,815	273,677
Accommodation costs	5	189,530	178,492
Ministry's overhead charge		141,320	302,897
Other non cash costs	6	31,901	30,049
Total costs		1,265,648	1,660,999
Net operating cost		409,210	564,077

All income and expenditure is derived from continuing operational activities.

There are no other gains or losses for the year.

The notes on pages 74 to 82 form part of these accounts.

BALANCE SHEET

AS AT 31 MARCH 2009

	Notes	2008/09 £	2007/08 £
Fixed Assets			
Tangible fixed assets	7	61,190	77,571
Current Assets			
Debtors	8	878,544	1,093,163
Current Liabilities			
Creditors	9	(871,624)	(1,094,818)
Net Current Liabilities		6,920	(1,655)
Total Assets Less Current Liabilities		68,110	75,916
Taxpayers' Equity			
General Fund	11	68,110	75,916
		68,110	75,916

The notes on pages 74 to 82 form part of these accounts.

Zahida Manzoor CBE
 Legal Services Complaints Commissioner

Suma Chakrabarti KCB
 Accounting Officer

Date: 24 June 2009

Date: 25 June 2009

CASH FLOW STATEMENT

YEAR ENDED 31 MARCH 2009

	Notes	2008/09 £	2007/08 £
Net cash outflow from operating activities	10	(244,564)	(246,195)
Capital expenditure		-	(686)
Finance from Ministry of Justice		244,564	246,881
Increase in cash		0	0

The notes on pages 74 to 82 form part of these accounts.

NOTES TO THE ACCOUNTS

1. ACCOUNTING POLICIES

Basis of accounting

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

Going concern

The Legal Services Act (2007) fundamentally changes the way that legal services will be regulated in England and Wales. The Legal Services Board and the Office for Legal Complaints are both expected to be fully functional in 2010. OLSCC will close on 31 March 2010 and activities in relation to legal complaints will be handled by the new organisations, therefore, in accordance with the Financial Reporting Manual the accounts have been prepared on a going concern basis. Funding through to closure has been agreed with MoJ and the Department continues to settle all of OLSCC's financial transactions with funds voted by Parliament.

Income

OLSCC does not recover its costs through charging fees though it recovers certain expenditure from the

Law Society under the provision of the Access to Justice Act 1999. The expenditure that is recoverable relates to staff costs (with the exception of the Commissioner's salary) and other direct costs.

Ministry of Justice's overhead charge

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

Other non-cash costs

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

Operating leases

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

Fixed assets

Tangible assets primarily comprise IT equipment and furniture. IT equipment costing more than £1,000 is capitalised and then depreciated over 3-5 years. All furniture is pooled, then depreciated over 20 years.

Intangible assets comprise developed software that is amortised over three years.

All depreciation is calculated on a straight line basis.

OLSCC Financial Information

VAT

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

Pensions

Past and present employees of OLSCC are covered by the provisions of the Principal Civil Service

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

2. INCOME

	2008/09 £	2007/08 £
Recharge of costs to the Law Society	856,438	1,096,922
Total	856,438	1,096,922

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

3. STAFF COSTS

	Employees £	Self- employed £	2008/09 Total £	2007/08 Total £
Wages, salaries and fees	573,029	(4,820)	568,209	687,681
Social security costs	45,966	(96)	45,870	53,448
Other pension costs	110,003	-	110,003	134,755
	728,998	(4,916) ³²	724,082	875,884

³² The figure included in the self employed column results from an adjustment processed in 2008/09 which related to the previous financial year.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but OLSCC is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2007.

Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation www.civilservice-pensions.gov.uk

For 2008/09 contributions of £110,003 (2007/08 £134,755) were paid to the PCSPS on behalf of employees at rates determined by the Government Actuary, reviewed every four years following a full scheme valuation. These rates were in the range 17.1% to 25.5% (as 2007/08) of pensionable pay, based on salary bands. From 2008/09, the salary

bands were revised but the rates remained the same.

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

The average number of whole time equivalent persons employed during the year was 14.64 employees (2007/08 18.47 employees). There were no self-employed staff in 2008/09.

Staff costs include the Commissioner's salary and associated pension contributions made on her behalf. Zahida Manzoor CBE held the post during 2008/09. Please refer to the Remuneration Report for further details.

4. OTHER DIRECT COSTS

	2008/09 £	2007/08 £
Rentals under operating leases		
Hire of plant and machinery	18,729	17,780
Travel and subsistence	59,358	89,080
External consultancy	17,909	31,133
Office supplies	10,535	13,580
Printing and reprographics	20,122	62,215
Distribution, postage & telecommunication	8,195	10,840
Training and events	24,925	20,053
Cleaning and catering	9,285	11,621
IT costs	7,172	3,426
Other	2,585	13,949
Total	178,815	273,677

5. ACCOMMODATION COSTS

	2008/09 £	2007/08 £
Rent and service charge	137,166	132,011
Rates	33,726	27,499
Other property costs	18,638	18,982
Total	189,530	178,492

6. OTHER NON-CASH COSTS

	2008/9 £	2007/08 £
Depreciation	16,381	16,381
Cost of capital	2,520	2,668
External audit fees	13,000	11,000
Total	31,901	30,049

The auditors received no remuneration for non-audit work. The 2008/09 external audit fees include £1,500 for work undertaken to meet the transition to the International Financial Reporting Standards (IFRS) in 2009/10.

7. FIXED ASSETS

	Furniture £	Computer and Other Equipment £	Total £
Cost or valuation			
At 1 April 2008	67,567	44,901	112,468
Additions	-	-	-
At 31 March 2009	67,567	44,901	112,468
Depreciation			
At 1 April 2008	10,804	24,093	34,897
Charge for the year	3,378	13,003	16,381
At 31 March 2009	14,182	37,096	51,278
Net book value			
At 31 March 2009	53,385	7,805	61,190
At 31 March 2008	56,763	20,808	77,571

8. DEBTORS

8(a) Analysis by Type

	2008/09 £	2007/08 £
Accrued Income	831,180	1,057,261
Accommodation prepayments	38,004	35,902
Salary Overpayments	9,360	-
	878,544	1,093,163

8(b) Intra-Government Balances

	2008/09 £	2007/08 £
Balances with bodies outside central government	869,184	1,093,163
Balances with other central government bodies	9,360	-
	878,544	1,093,163

9. CREDITORS

9 (a) Analysis by Type

	2008/09 £	2007/08 £
Law Society income payable to MoJ	831,180	1,057,261
Taxes and Social Security Creditor	23,505	-
Accommodation accruals	987	29,330
Other Accruals	15,952	8,227
	871,624	1,094,818

9 (b) Intra-Government Balances

	2008/09 £	2007/08 £
Balances with other central government bodies	854,685	1,057,261
Balances with bodies outside central government	16,939	37,557
	871,624	1,094,818

The 2008/09 creditors include payroll items due to HM Revenue and Customs for tax and national insurance due at 31 March 2009.

10. RECONCILIATION OF OPERATING COST TO OPERATING CASH FLOWS

	Notes	2008/09 £	2007/08 £
Net operating cost		(409,210)	(564,077)
MoJ's overhead charge		141,320	302,897
Other non cash costs	6	31,901	30,049
Decrease/(increase) in debtors		214,619	56,009
(Decrease)/increase in creditors		(223,194)	(71,073)
Net cash outflow from operating activities		(244,564)	(246,195)

11. GENERAL FUND

	2008/09 £	2007/08 £
Net operating cost	(409,210)	(564,077)
Financing from MoJ	244,564	246,881
MoJ overhead charge	141,320	302,897
Cost of capital	2,520	2,668
Auditors' remuneration	13,000	11,000
Net (decrease)/increase in General Fund	(7,806)	(631)
General Fund at start of year	75,916	76,547
General Fund at end of year	68,110	75,916

12. COMMITMENTS UNDER LEASES

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

	2008/09		2007/08	
	Land & Buildings £	Other £	Land & Buildings £	Other £
Within 1 year	-	-	-	-
From 1 to 5 years	-	11,790	-	6,766
After 5 years	110,537	-	112,893	1,119
	110,537	11,790	112,893	7,885

13. CONTINGENT LIABILITIES

There are no contingent liabilities.

14. RELATED PARTIES

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

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

15. CAPITAL COMMITMENTS

There are no capital commitments.

16. POST BALANCE SHEET EVENTS

There are no post balance sheet events affecting OLSCC. In accordance with the requirements of FRS21, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate of the Comptroller and Auditor General.

17. FINANCIAL INSTRUMENTS

17a Risk Management Objectives and Policies

OLSCC does not use financial instruments to create or change risk in undertaking its activities. The non-trading nature of its activities and the way it is financed mean that OLSCC is not exposed to large-scale financial risks.

17b Liquidity Risk

OLSCC has no borrowings and its net resource requirements are met from resources voted annually by Parliament to MoJ. The cash expended by MoJ to settle OLSCC's bills is represented by "financing from MoJ" of £244,564 in note 11 and in the cash flow statement. MoJ settles all OLSCC's financial transactions irrespective of when the income from the Law Society is received and remitted to MoJ. OLSCC is not therefore exposed to significant liquidity risk.

17c Interest Rate Risk

OLSCC has no deposits, since cash at bank is held in MoJ's bank accounts and not included in these accounts. There is no interest rate risk.

17d Foreign Currency Risk

All material assets and liabilities are denominated in sterling, so OLSCC is not exposed to currency risk.

18. PENALTIES

In June 2008, the Commissioner imposed a penalty of £275,000 on the Law Society for the failure to provide an adequate plan for 2008/09. It was subsequently agreed by the Commissioner and the Law Society (with the knowledge of MoJ) that the Law Society would

introduce a series of agreed measures that invested the equivalent amount of the penalty (£275,000 ring fenced) into proposals aimed at improving client care and complaints handling within the profession.



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