

LAW SOCIETY PLAN FOR COMPLAINTS HANDLING 1 APRIL 2007 TO 31 MARCH 2008

This letter sets out my decision on whether the Law Society has handled complaints in accordance with its 2007/08 complaints handling Plan. Having considered carefully all the information before me, my decision is that the Law Society has not handled complaints in accordance with its 2007/08 Plan. Whilst I consider it would be open to me to do so, I have decided that I will not require the Law Society to pay a penalty.

Since 2004 I have been setting targets for the Law Society and requiring a Plan to deliver these and to bring about improvements towards effective and efficient complaints handling. For the Law Society's performance against its 2006/07 Plan I commented that I was disappointed at the slow pace of improvement in key areas such as quality and benefits realisation, stating the achievement of a good quality service and value for money is fundamental for any organisation aiming to become effective and efficient in its operations. I also commented that this failure had impacted on the level and type of targets I was able to set in this area for 2007/08, with the targets being lower in some quality areas than I had planned, and others based on achieving milestone dates rather than benefits realisation. In addition the targeted improvements for quality were still at the stage where getting the basics of quality right in terms of processes and standards was a priority. I advised the Law Society that by the end of 2007/08 I expected it to be meeting all targets at the level set and then sustaining that pace of improvement. Whilst I am pleased that performance across quality compared to last year has improved and I have taken this into consideration, the Law Society, Legal Complaints Service (LCS) and Solicitors Regulation Authority (SRA) should not see this as a success, because of the 7 Quality Targets I set it for 2007/08, it has met only 2, and missed 5.

Summary of 2007/08 performance against the targets

For the 2007/08 Plan year I set 13 targets for the Law Society.

- 2 were aimed at improving the timeliness, with which complaints are handled
- 7 were designed to improve the quality of processes for complaints handling, and were largely based on the Law Society adherence to implementing its own service standards, and
- 4 were focused on ensuring that the Law Society utilised the resources and undertook the improvement work listed in its Plan.

Of the 13 targets I set, 6 were met, 2 were exceeded and 5 were missed.

I have detailed below which targets I consider to have been met, exceeded and missed. In reaching my decision I have taken into consideration all information and performance data provided to me by the Law Society's LCS and SRA, as well as the findings from my 2007/08 end of year audit of performance against the quality targets.

STRATEGIC PRIORITY 1 – IMPROVING THE SPEED WITH WHICH COMPLAINTS ARE HANDLED

Timeliness target T1: By the end of March 2008 to have no cases older than 12 months, except for 65 Redress Conduct (RDC) matters.

LCS and SRA had a joint target to have no complaints older than 12 months old by the end of the Plan year March 2008, except for 65 RDC matters. Whilst LCS and SRA reported that there were still a small number of cases open over 12 months old at the end of the Plan year for various reasons, including for exceptional circumstances, this is a much needed improvement and **I consider Target T1 to be met.**

Whilst I am pleased that timeliness is improving, I cannot ignore the number of cases that have become older and were 9 to 12 months old during the Plan year. Controlling the rollover of cases into the older age category is fundamental to sustaining performance and achieving future improvements so that no complaint takes longer than 12 months to conclude. LCS and SRA had committed in its Plan to reduce rollover to zero, this was critical to achieving this aim but also to making further progress during 2008/09. When setting targets for future years, I have to make assumptions that what is set out in the Plan will be met.

Timeliness target T2: To close 67% of cases within 3 months of receipt.

LCS and SRA achieved jointly 67% of cases closed within 3 months. However, separately LCS closed only 63% of cases within 3 months, and SRA closed 77%. I am pleased that overall this joint target has been met but moving forward LCS and SRA will have other separate targets, which will require them each to plan and deliver improvements accordingly. **I consider Target T2 to be met.**

In conclusion I am pleased with the improved performance in both timeliness target areas during the year. The targets I have set have driven improvements resulting in the number of older cases reducing substantially and consumer complaints now being handled more quickly; this is good news for the consumer and profession and now needs to be built upon and maintained. The challenge ahead is one of balancing improvements in timeliness with quality but at a much lower cost per case than currently.

STRATEGIC PRIORITY 2 – IMPROVING THE QUALITY OF COMPLAINTS HANDLING

Quality target Q1: To acknowledge 93% of cases within 5 working days of receipt.

LCS and SRA achieved jointly 92.3% against a target of 93%. Separately, LCS achieved 93.4% and SRA achieved 89.2%. It is important that consumers know that their complaint has been received, as they are then less likely to need to write or telephone to confirm receipt. **I consider Target Q1 to not be met.** In reaching my decision I have taken into account the improvement in this area since my audit in 2006 when performance was at 41.2%.

Quality target Q2a: To send 88% of customers/informants a substantive response within 45 calendar days of receipt.

LCS and SRA jointly achieved 86.2% against a target of 88%. Separately LCS achieved 84.9% and SRA achieved 90.8%. This target measures the time taken to specifically identify the issues raised by the consumer/informant and to confirm the action LCS and SRA are taking to deal with the complaint. **I consider Target Q2a to not be met.** In reaching my decision I have taken into consideration the improvement compared to last year's performance where LCS and SRA provided substantive responses within 55 days in 78.5% of cases.

Quality target Q2b: To inform customers/informants of certain standard information in 93% of cases.

LCS and SRA jointly achieved 97.1% against a target of 93%. Separately LCS achieved 96.5% and SRA achieved 98.9%. This target measures whether LCS and SRA informed the consumer/informant of certain standard information in the initial stages of their complaint. It was set because the results from my annual casefile audit in 2006 showed that only 10.3% of cases consumers were receiving **all** 3 pieces of standard information in the initial stages of their complaint. I am pleased to note that the findings from my 2007/08 end of year audit of performance against the quality targets shows a much needed improvement has been achieved. **I consider Target Q2b to be met.**

Quality target Q3: To give customer & solicitor sufficient information to make an informed decision for Conciliation or Reasonable Offer Made (ROM) closures in 85% of cases.

This target only applies to LCS, which achieved 90.6% against a target of 85%. This target measures whether the appropriate guidance in relation to the likely level of redress is shared with consumers and solicitors at the relevant stage of the case, to help consumers and solicitors make an informed decision in the resolution of a complaint. I am pleased that performance against this target has been exceeded. I have also taken into consideration the level of improvement made compared to last year's performance where LCS gave customers and solicitors sufficient information to make an informed decision in only 81.7% of cases. **I consider Target Q3 to be met.**

Quality target Q4: To provide specified customer/informant updates in 88% of cases.

LCS and SRA jointly achieved 79.9% against a target of 88%. However, separately LCS achieved only 76.3% and SRA achieved 98.4%. It is important that updates are provided to consumers/informants on the progress of their complaint on at least a monthly basis or at key stages during the complaint. In reaching my decision I have taken into account that LCS is still not adhering consistently enough to its own policy and customer standards by ensuring that regular contact takes place to update the consumer on the progress of their complaint. Whilst I have taken into consideration that improvement has been made compared to performance in 2006/07, I am concerned that this target has been missed for the second year in succession. **I consider Target Q4 to not be met.**

Quality Target Q5: To ensure the relevant Special Payments policy is correctly applied in 85% of cases.

LCS and SRA jointly achieved 84.4% against a target of 85%. Separately LCS achieved 81.8% and SRA achieved 94.1%. This target is intended to measure how well LCS and SRA apply their own procedures and policy in relation to making special payments where there are failings in its own service to consumers. **I consider Target Q5 to not be met.** Although this target was not met, in reaching my decision I have taken into account the degree by which this target has been missed. I have also taken into consideration the improvement compared to performance during 2006/07 where only 48.4% of cases had a consideration and/or award of a Special Payment made in line with LCS and SRA' agreed policy.

Quality target Q6: Legal Services Ombudsman (LSO) to support the handling of complaint in 73% of cases referred.

LCS and SRA jointly achieved 71% against a target of 73%. However, separately LCS achieved 67% and SRA achieved 81%. This target measures the number of cases upheld by the LSO, and provides an independent scrutiny of the management of cases by LCS and SRA. **I consider Target Q6 to not be met.** In reaching my decision I have taken into consideration that performance against this LSO target has appeared on an upward trend since November 2007. Although LCS and SRA have not met this

target for the third year in succession, I have taken into account that performance has increased by 4 percentage points since I first set targets in this area in 2005.

In conclusion, by the end of 2007/08 I had expected LCS and SRA to be meeting all quality targets at the level set and then sustaining that pace of improvement. Whilst I welcome the improvements made compared to performance last year, by missing 5 of the 7 quality targets in its Plan, it would be complacent of the Law Society, LCS or SRA to claim they had had a successful year. Getting more of the basics of the process right will provide a platform for moving forward to improving the consistency of decision making, and achieving a fair and reasonable outcome on complaints. Looking forward to the year ahead, LCS and SRA need to build on the improvements in its processes and make up lost ground to achieve this aim and the quality targets I have set for 2008/09.

STRATEGIC PRIORITY 3 – IMPLEMENTING THE AGREED PLAN FOR COMPLAINTS HANDLING

The targets set for implementing the Plan were not difficult ones to achieve but ones necessary to ensure that basic organisational and financial controls were in place to support the business. LCS and SRA had 4 targets relating to the implementation of its Plan, all of these targets have been met.

Plan target P1: To use at least 95% of authorised budget to deliver the plan

Budget information provided shows that the Law Society's total expenditure on complaints handling for the period April 2007 to March 2008 was £35.286 million, of which LCS expenditure was £30.926 million and SRA expenditure £4.360 million. This is within the 5% tolerance for the target. Whilst this target was set in a climate when there was a failure to effectively manage finances, I set the foundation last year through a key performance indicator to balance this with the need to significantly reduce costs and become more efficient; something my 2008/09 target for reducing costs now starts to aim to achieve. **I consider Target P1 to be met.**

Plan target P2: To use at least 95% of authorised resource to deliver the plan

In its Plan the Law Society's LCS and SRA expected to have a total of 456 staff in post by the end of the Plan year, 393 within LCS and 63 within SRA. LCS and SRA reported that there were 468 permanent and temporary staff in post by the end of March 2008, which is within the 5% agreed tolerance. Again, my target for reducing costs during 2008/09 shifts the emphasis to efficiency with greater resource focus on frontline complaints handling, by reducing the burgeoning support function. **I consider Target P2 to be met.**

Plan target P3: To deliver all initiatives to time and cost and meet all related milestones and benefits to be realised.

I have considered all of the work undertaken by LCS and SRA against the 3 agreed complaints handling projects. However, these projects were scoped at a high level within the Plan not making it possible to fully assess the level of achievement or specific benefits, if any, brought about, only whether the agreed deadlines could be measured. In reaching my decision I have recognised the difficulties encountered by the Law Society and LCS with implementing the new LCS IT system. I am disappointed that no consideration was given to the need for effective contingency plans should the IT fail to be implemented successfully. The new IT project did fail and had to be halted. I view

contingency planning to be basic risk management within projects, the principles of which failed to be considered sufficiently by LCS as the chief benefactor of the system.

During the year I also provided a progress report where I raised my concerns regarding Project Assurance, particularly in relation to non-compliance with the agreed LCS change control process (my letter of 14 September regarding CHIP 3 – Publishing of Solicitors Complaints records refers). It is important that LCS manages changes to the agreed Plan by the agreed process, and consults with its stakeholders as appropriate prior to any implementation or changes being introduced. Whilst I am disappointed that LCS and SRA were unable to measure any benefits from the initiatives being delivered, and that LCS failed to consider any contingency for its failed IT system, I have taken into consideration that agreed deadlines were met. **I consider Target P3 to be met.**

Plan target P4: Unless varied by agreement with the Commissioner, LCS and SRA will report their monthly and quarterly progress to the Commissioner by the agreed dates.

All management information reports were provided to time. **I consider Target P4 to be met.**

Volume and nature of cases dealt with by the Law Society

LCS and SRA jointly received 19,219 new cases, including within LCS 1,770 new Coal Health Compensation (CHC) complaints, which overall is 785 (4%) cases more than they received in 2006/07. LCS and SRA jointly closed 18,543 cases during the year, which was 1,137 cases (6%) below their *revised* closure forecast, and 1,821 less closures than last year. I have also taken into consideration the impact of the CHC complaints on the LCS business following its awareness raising pilot in July, in areas such as increased rollover, and numbers of unallocated cases, and also productivity.

The Law Society agreed with me that it would provide an additional £500k to fund LCS' action plan to recover performance against the targets and bring case closures back on track. LCS confirmed this money would be used to recruit additional temporary staff and employ more full time permanent staff, and increase the volume of cases to send to the outsource firms. LCS, despite being requested to do so, did not provide any information to show the specific benefits gained as a result of utilising this extra resource. This lack of information makes it difficult to reconcile what benefit LCS obtained from this additional £500k spend as targets were still missed and case closures down on previous years.

Conclusion

Although overall 5 of the 13 targets I set within the 2007/08 Plan were missed, I welcome the improvements made in timeliness and quality of processes compared to performance last year, and the efforts made by the Law Society's LCS and the SRA towards achieving these improved performance levels. This is good news for the consumer and the profession.

Looking ahead there is a recognition that further improvements are necessary in LCS and SRA to bring about effective and efficient complaints handling. I am particularly mindful of this in relation to the number of legacy cases that the new Office for Legal Complaints may be required to deal with when it becomes operational in December 2010. My 2008/09 targets begin this process by aiming to ensure that the LCS provides a more prompt, consistent and accurate handling of complaints at a more efficient cost. With the right level of commitment and effort this can be achieved, and the work undertaken this year by LCS and SRA is a good basis for achieving this.

I also acknowledge that, in some form, LCS and SRA have actioned all of my recommendations as to how they can make improvements during the year. They now need to track the impact of their actions to ensure genuine benefits are achieved.

Formal Decision on the Law Society's performance against its 2007/08 Plan

For the purposes of section 52(3) of the Access to Justice Act 1999, and having considered carefully all the information before me, my decision is that the Law Society has failed to handle complaints in accordance with its 2007/08 Plan. My decision has been reached in consideration of the specific circumstances of this year's performance by the Law Society, against its Plan. However, whilst I consider it would be open to me to do so, I have decided that I will not require the Law Society to pay a penalty.

This decision takes account of all positive improvements made this year alongside any failures. My decision is fair and balanced based on what I know at this point in time. The statutory requirement for any representation where complaints fail to be handled in accordance with a Plan relates to the imposition of a penalty. However, as with previous years, I am offering the Law Society the opportunity to represent to me in writing on my decision itself, should it wish to do so. Should the Law Society wish to make written representation to me, I request that they confirm this to me by 27 June and that any written representations are with me no later than noon on 4 July.