
Law Society delivery against its improvement Plan

TARGET 4 - DELIVERY OF THE LAW SOCIETY PLAN

The Law Society needs to understand the way in which it could look to change its processes and policies, to make improvements for the consumer.

We all know that the ability to plan effectively can bring about real benefits. Planning for improvement is no different. The key is to know what it is you want to improve and how you will achieve it. To do this you need a good understanding of the business and an action plan you will deliver against.

At the beginning of the year I made a number of recommendations to the Law Society about the way in which it could look to change its processes and policies to make improvements for the consumer. In the main, the Law Society stated that it would act on my recommendations in its improvement Plan, some of which it reported would be addressed through the sixteen initiatives it proposed to implement between 1 April 2005 and 31 March 2006. I have listed all of the initiatives in Appendix 6, and have referred to many of them next to the relevant target areas.

Fig. 14 Staffing information during the period 1 April 2005 to 31 March 2006

Number of staff	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	YTD*
Vacancies advertised in CCS & CAI	18	6	7	2	18	7	4	3	2	17	17	13	9.5
Total FTE for CCS & CAI inc CCS Agency staff only	370.96	374.86	385.16	384.58	392.98	409.78	408.48	408.48	401.67	409.88	410.88	407.96	397.13
Staff shown in Plan	407	407	407	407	407	407	407	407	407	407	407	407	407
Staffing shortfall	-36.04	-32.14	-21.84	-22.42	-14.02	-	-	-	-5.33	-	-	-	9.9

*YTD Year to date average

Human Resources strategy – recruitment, retention, staffing, training & development

I strongly believe that the Law Society needs to continually improve its recruitment and retention of staff, and provide appropriate training and development of its workforce, in order to improve the complaints handling service it provides to consumers.

At the beginning of the period of the improvement Plan the Law Society advised me that it would need the equivalent of 407 full time staff to deliver the Plan and achieve improvements, (326.5 staff within CCS and 80.5 staff within CAI). It had the budget for this. The Law Society reported that it implemented quarterly recruitment campaigns, a twelve week induction programme for new staff and recruited an additional 81 posts during the Plan year.

However, as you can see from the information in the table above, the Law Society has operated with a

shortfall in staffing against its improvement Plan for 6 out of the 12 months during the period 1 April 2005 to 31 March 2006. On average the Law Society was 9.9 staff down each month throughout the year.

I am concerned that the Law Society has not been fully staffed to the levels it said it would need in its improvement Plan and earlier planning would have been appropriate. Indeed, the Law Society accepted in its monthly and quarterly meetings with my Office that its recruitment programme had “got off to a slow start”. Staff attrition, despite remaining at a level which should have been built into its planning processes during the period 1 April 2005 to 31 March 2006, has continued in part to cancel out the impact of any staff recruitment.

I believe that not having these extra staff has played a part on delivery failures, for example on the number of its cases waiting to be given to caseworkers and the number of its cases rolling into older timebands.

Budget and resources information

The Law Society needs to utilise the budget and resources available to it in order to improve the complaints handling service it provides to consumers. With a budget of over £37 million, I believe it is imperative that the Law Society has effective planning and financial controls in place. I am concerned by the existence of an underspend, when the improvements planned for are not fully achieved.

At the start of the calendar year the Council of the Law Society made an additional £4.7 million available to improve its complaints handling. This increase was intended to deliver the work outlined in the improvement Plan. By the end of March 2006, the Law Society was £3.092 million (8.3%) below its planned budget of £37.042 million for the period 1 April 2005 to 31 March 2006.

I am concerned that there has been a considerable underspend against its budget forecasts in a number of key areas and in particular around staffing costs. Throughout the year, I have urged the Law Society to utilise the budget and resources available to it in order to improve the complaints handling service it provides to consumers. It is my view that the Law Society needs to better understand its budget and the benefits of spending it effectively.

The Law Society budget for the period 1 April 2005 to 31 March 2006 was £37.042 million. Information provided by the Law Society shows that during the period 1 April 2005 to 31 March 2006 it spent £33.950 million on complaints handling. Based on the 18,840 cases closed by the Law Society during the year, this works out at approximately £1,800 per case closure.

The Law Society continues to announce that it is putting more money into its complaints handling systems, but there seems little attention as to what benefits will be achieved from its expenditure. As I have

said earlier, this in itself is not a problem, but it is a cost to the profession that I would expect the Law Society to be keen to reduce. This expenditure needs to be translated into significantly better complaints handling and improved efficiency. It will be vital for the future organisations that handle legal complaints to be cost effective. The way the Law Society currently operates may not be the platform on which to build this efficiency.

The handling of complaints is paid for by the profession, through its practising certificates. It is not credible for the Law Society to ask for an increased complaints handling budget year on year, only for the budget to be under spent and improvements to be slow in coming. The profession itself should be insisting on better management and a more efficient return on its investment.

Looking forward to the introduction of the Office for Legal Complaints, my view is that strong and effective financial management will be key.

Project Management

An organisation needs to have control of the changes it is introducing to its processes, and an understanding about what benefits it hopes to achieve.

The Law Society included in its improvement Plan a section devoted to its use of project management principles in its handling of initiatives. From what I have seen there have been some improvements in this area. A Programme Management Steering Committee was set up to discuss the progress of projects and to identify problem areas, and a monthly report is produced which identifies areas of concern. This report is shared with my Office.

However, I believe there are still improvements to be made in the way in which the Law Society manages its projects and uses project management principles. So



Making best use of resources

far there seems to have been little consistency in the stages at which a project goes through to implementation, or in how each project is approached. This is an important area of work for the Law Society because there are certain crucial stages that every project needs to go through to ensure it achieves its objectives. The Law Society reported in its improvement Plan that the use of recognised project management principles would help it deliver its initiatives, and therefore achieve the targets. I am therefore concerned that it does not seem to have applied those principles consistently.

In particular, while I accept that some analysis was made on the impact of the initiatives, I do believe the assessment techniques could have been better. This would help it to understand performance issues on delivery. It is essential for an organisation seeking to become effective and efficient that it understands what benefit it is getting from the money it is spending. The Law Society should take action to understand further

the benefit of this work so that it can identify which changes should be embedded as it goes forward. This is something that I will require from April 2006.

Information Technology

The Law Society has said that it wants to be recognised as a centre of excellence. To do this it needs to invest in its Information Technology systems.

I am concerned about the Law Society's level of investment in its Information Technology (IT).

The Law Society proposed an initiative in its improvement Plan to improve its IT that would enable more effective management of its work. I am disappointed that the Law Society decided not to continue with this initiative. However, part-way through the year it did add a new initiative to its work programme aimed at identifying the risks and opportunities it has in relation to its IT systems. I regard this as a critical project for improving

the complaints service. I understand that the findings from this audit are now being fed into new work to develop a systems strategy project, which aims to improve how the systems are used, and I will be interested in the outcome of this.

Any organisation which is keen to improve its systems and processes needs to consider the benefit of investment in its IT, both now and for the future to support its activities and processes. If the Law Society wants to be recognised as an effective and efficient organisation, it needs to be supported by suitable IT.

Outsourcing complaints

I appreciate the need for flexible resources, which can be called upon as and when necessary. What concerns me is the continuing reliance placed on these resources by the Law Society.

In order to reduce the number of cases it has outstanding, the Law Society has continued to outsource cases to solicitors' firms. Throughout the year I have continued to express my concern about the Law Society's increasing use of outsourcing as part of its normal business. I feel that outsourcing should be used as a flexible option, as the Law Society indicated

in its improvement Plan, rather than being used on a permanent basis to top up capacity or inadequate performance. I would recommend that the Law Society takes a long-term view on its use of outsourcing during the period 1 April 2006 to 31 March 2007 and produces a strategy to address its staffing needs and its more flexible requirements.

Currently the CCS uses four outsource firms and the CAI uses three. A total of 2,318 cases (12.7% of all cases received during 1 April 2005 to 31 March 2006) were sent to outsource firms for action between 1 April 2005 and 31 March 2006, to add to the 513 cases carried over from last year. Of these, 2,276 complaints were closed, and a total of 579 are still awaiting action. These are broken down as follows:

In terms of looking to the future, I would certainly question whether the current system of outsourcing, used by the Law Society, is sustainable or desirable. With regards to the new Office for Legal Complaints, the Government has said that,

"People can be confident where they do have a complaint against a lawyer, then it will be looked at independently, and not by other lawyers".¹⁴

Fig. 15 Outsourcing information during the period 1 April 2005 to 31 March 2006

	Files sent	Actual files closed	Files currently with outsource firms
CCS	1459	1338	266
CAI	859	938	313
TOTAL	2318	2276	579

* files closed also includes some closures from referrals made in previous year

¹⁴ Secretary of State Press Release, "Consumers at heart of Legal Reforms", dated 17 October 2005.

Local Conciliation Officers

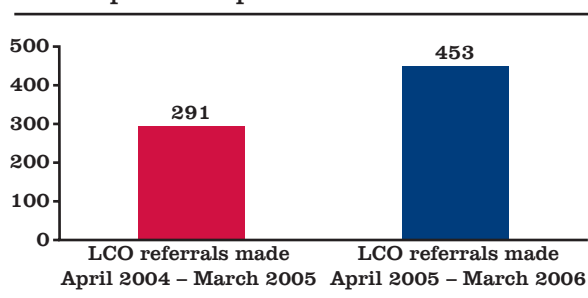
Local Conciliation Officers (LCO) are solicitors who have received complaints handling training by the Law Society, to enable them to investigate complaints on behalf of the Society. There are approximately 220 LCOs currently registered with the Law Society. LCOs are typically used for face-to-face meetings with consumers who have registered a complaint and who may have special needs. LCOs undertake some investigative work and resolve the more straightforward complaints.

In the past I have suggested that the Law Society could make greater use of LCOs in order to deal with the number of cases it currently receives. The table opposite shows the comparison of LCO referrals made during the period 1 April 2004 to 31 March 2005, compared to this year.

During the period 1 April 2005 to 31 March 2006, 453 referrals were made to LCOs, 162 (56%) more referrals than during the same period last year.

At the end of June 2005 I suggested that the Law Society consider whether there was scope for the LCO resource to be used more flexibly, to increase capacity for the number of case closures. Despite concerns about meeting its targets, the Law Society only decided to use LCOs to consider additional cases, namely those cases that were unallocated, from September 2005. Whilst implemented later in the year than I would have liked, I am pleased that the Law Society took steps to utilise its LCOs in this way.

Fig.16 Local conciliation referrals during the period 1 April 2005 to 31 March 2006



My audit findings

In order to provide me with independent assurance about the Law Society's complaints handling processes and systems, my Research and Investigations team has undertaken a series of audits during the period 1 April 2005 to 31 March 2006.

The audits focussed on specific areas and examined the progress of consumer complaints through the Law Society's complaints handling processes. The audit findings were presented in audit reports and made publicly available on the OLSCC website.¹⁵ This helped ensure that all interested parties, including consumers, had access to information on how the Law Society is performing in its complaints handling.

When choosing the number of cases to audit my Research and Investigations team ensures that the sample sizes are robust so that conclusions on the Law Society's complaints handling can be drawn. Within the samples, there are a range of factors that can be considered so that the file sample is representative. One such factor, which is always used in the sampling strategies, is the age profile of cases. This ensures that the cases in the sample are neither weighted towards older or younger cases, but are an accurate reflection of the complaints under examination.

¹⁵ OLSCC's website, www.olscc.gov.uk

My Research and Investigations team has undertaken three audits of Law Society case files during the period 1 April 2005 to 31 March 2006.

- Audit on the application of the Law Society's Special Payments policy - in May and June 2005 an audit was undertaken to examine the consideration of the application of the Law Society policy relating to the award of Special Payments.
- Annual Case File Audit - in September 2005, my Research and Investigations team completed a comprehensive audit of Law Society case files. The aim of this work was to consider a range of factors from delays on cases to the appropriate application of Law Society policies and procedures.
- Coal Health Compensation Scheme Audit – between February and May 2006 an audit was undertaken by my Research and Investigations team to examine the Law Society's handling of complaints relating to the Coal Health Compensation Scheme. Full details of the findings from this audit are due to be published shortly.

Special Payments Policy Audit

Audits undertaken by my Research and Investigations team in 2004 had identified inconsistencies in the application of Law Society processes and procedures, particularly around ex-gratia payments (now known as Special Payments). I commissioned the Special Payments audit because I wanted to ensure that where the Law Society's own systems and processes had failed, its own Special Payment policy was applied fairly and consistently to all consumers. I provided details and key findings from this audit in my Interim Report. In summary my key findings are listed below.

- **Delay on the part of the Law Society**
This related to both delay in the allocation of the file at the outset and delay in progress during the lifetime of the case. Allocation delays ranged between 1 and 11 months with an average around 3 months. Progress delays varied widely from 1 month to 2 years with an average around 5 months.

Case Study

In a complaint the solicitor did not answer the caseworker's questions and the caseworker did not use the powers available to them to obtain a response. The consumer commented on the length of time their complaint was taking and that the caseworker was not chasing up the solicitor. There was over six months delay attributable to the caseworker and nearly two months delay attributable to the solicitor. There was a compensation payment of £250 made to the consumer to reflect the delay but this would have been expected to be higher in accordance with the Law Society's Special Payment Guidelines, given the dissatisfaction expressed by the consumer at the service he was given.

- **Inconsistency in the application of the Special Payments policy**

Where Special Payments had been awarded, in just over 50% of cases the approach taken by caseworkers was generally in line with the Law Society policy guidelines. Evidence on remaining cases showed that amounts of awards varied and were not consistent with the guidelines. An area of concern was the lack of sufficiently detailed rationale to support caseworker decisions.

- **A lack of effective assessment of some cases at the outset by the Law Society**

The audit provided evidence of a number of cases that had not been effectively assessed at the outset. In these cases the evidence showed that if the Law Society had subjected the complaint to a more thorough examination on its receipt it could have progressed to resolution and been closed much more quickly. This would have resulted in a more satisfactory outcome for the consumer.

- **A lack of active case management**

The audit provided evidence of cases where there

was no activity on them for lengthy periods of time. There was no evidence of line management intervention on these cases unless the consumer specifically made a complaint about the service they were receiving from the Law Society. My auditors also found evidence of caseworkers not obtaining responses from solicitors to deadlines they had been set and that caseworkers were taking a considerable amount of time to complete reports where an adjudication decision was required.

My recommendations

As a result of these findings, I made a number of recommendations, including that the Law Society should:

- allocate cases more quickly and ensure consumers are updated every 30 days with information pertinent to their case;
- further improve the quality and consistency of its decisions;
- undertake a more effective assessment of cases at the outset; and
- act decisively on delays in its processes.



Consumers expect consistent decisions

Annual Case File Audit

I had been concerned for some time as to the quality and effectiveness of the Law Society's complaints handling. In order to gather more information I asked my Research and Investigations team to undertake a comprehensive audit of Law Society case files to review performance and consider a range of factors from delays to the application of Law Society policies and procedures.

My key findings from this case file audit were published in April 2006, and are now available on the OLSCC web site.¹⁶

In summary the key findings from the audit of files closed in 2005 are shown below.

¹⁶ OLSCC's Audit Report November 2005 – Annual Case file Audit, published April 2006, available at www.olscc.gov.uk

- There continued to be delays in Law Society complaint handling
Delay in the handling of complaints continued to be a major concern. The audit found that 57% of cases closed in 2005 experienced delay against the 56% that were identified in the audit of files closed in 2004. There is therefore no evidence that the proportion of cases experiencing delay has changed and in addition there is no evidence of a reduction in the average delay (3 months) experienced on case files. This means that consumers continue to suffer significant delay in the handling of their complaints. The findings were based on files closed at the beginning of the year. I will therefore be interested to see what progress has been made when compared to my audit findings for 1 April 2006 to 31 March 2007.

- **There continued to be a lack of active case management**

Where cases were referred to third parties (such as LCOs and outsourcing firms, who handle complaints on behalf of the Law Society) it was found that there was no evidence of progress tracking by caseworkers and that targets for the return of these files were not being met. The evidence also showed that the Law Society's approach to obtaining responses from solicitors was not sufficiently robust. Caseworkers only used the powers available to them in 18% of cases where the solicitor did not respond within agreed timescales. The Law Society does have suitable regulatory powers and these should be used more appropriately in line with its own policy guidelines to enforce responses. My auditors also established that the formal report by caseworkers, required as part of the adjudication process, should take between 6 and 8 weeks to produce. However the evidence showed that caseworkers were taking on average 20 weeks to write this report, with the longest case taking 70 weeks. Nobody should have to wait well in excess of a year to have one part of their complaint dealt with. Particularly when this part of the process is almost entirely within the Law Society's own control. The Law Society has to improve this substantially.

- **Application of Law Society Consumer Standards was inconsistent**

My auditors evaluated the Law Society's achievement against its own consumer standards introduced after January 2005. It was found that 63% of cases were not acknowledged within the target of 5 working days, and the timeframe within which the consumer should be issued with a substantive response to their complaint was not met in 51% of cases. The initial letter to the

consumer should contain certain information. The evidence showed that 93% of letters issued did not contain the required information. With regard to letters on closure of the complaint the Law Society performed much better, with 96% of closure letters containing the correct information. The Law Society has a policy that caseworkers should contact the consumer every month. In only 54% of cases did caseworkers do this. While I am pleased that the Law Society has set itself internal standards, these are only effective if they are actually applied. It is clear that this is an area for improvement.

The annual case file audit has assisted me in setting targets around quality improvements for the Law Society for the period 1 April 2006 to 31 March 2007, as well as enabling me to make recommendations on where improvement is necessary. Details of these targets and recommendations can be found in Appendix 9 of this report.

Audit of the Law Society's handling of complaints relating to the Coal Health Compensation Scheme

Much has been written recently about the compensation scheme set up by the Department of Trade and Industry to administer payments to former mineworkers and their families for health problems caused by coal-mining. This has turned out to be the world's largest personal injury scheme; over 750,000 claims have been made to date.

My interest in this area stemmed from wanting to ensure that miners were receiving equal and consistent treatment from the Law Society where the complaint against their solicitor had not been resolved at source.

Since 2003 the Law Society has received 1,048 complaints from miners and their families, about their solicitors, who had made deductions from their awards

of compensation paid under the Coal Health Compensation Scheme. Of these, 641 complaints were made during the period 1 April 2005 to 31 March 2006. Some of these complaints were made regarding the practice (of some solicitors) of making deductions without notifying the client that other firms offered the same service but did not make a charge.

At the time of writing my Interim Report in September 2005, having noted an increasing number of complaints against solicitors in relation to this scheme, I voiced my initial concerns. I also indicated that,

"I may wish to review the Law Society's arrangements for handling these complaints with a view to considering whether improvements can be made".¹⁷

I therefore directed my Research and Investigations team to conduct an audit of these cases to look at the consistency and effectiveness of the Law Society's handling of complaints made by miners, about solicitors, who represented them in claims covered by the Coal Health Compensation Scheme. The scope of the audit broadly covered the following areas.

- The Law Society's investigation into whether solicitors had provided an adequate professional service.
- The level of advice offered to consumers regarding their options for complaint resolution including information relating to the adjudication process.
- The Law Society's approach to conciliation and the type and levels of redress obtained from solicitors.
- As part of the Law Society's investigation, whether there were any specific conduct issues that required further examination.

¹⁷ Legal Services Complaints Commissioner's Interim Report - "Pushing for change" which was published in November 2005 and can be viewed on the OLSCC website, www.olscc.gov.uk



Equal and consistent treatment

The audit took place during February to May 2006 where a representative sample of case files was audited in addition to interviews with various Law Society managers and staff. A report on my key findings is due to be published shortly and will be available on the OLSCC website.