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**JUSTICE**



LEGAL SERVICES  
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*LEGAL*  
OMBUDSMAN

# **Tripartite Operating Protocol**

Agreement between the Ministry of Justice, the Legal Services Board and the Office for Legal Complaints

June 2017

Signed: 

Date: 8 June 2017

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Date: 13 June 2017

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# Tripartite operating protocol between the OLC, MoJ and LSB

## Context

The Legal Services Act 2007 (the Act) established the Legal Services Board (LSB) and the Office for Legal Complaints (OLC) as Arms' Length Bodies (ALBs) of the Ministry of Justice (MoJ). This document describes the ways in which the three bodies will work together to discharge their respective responsibilities as regards the Office for Legal Complaints.

The governance arrangements between the OLC, LSB and MoJ are unusual in that they allocate a range of accountabilities across three bodies. Given that both OLC and the LSB are ALBs of the MoJ, Ministers can be held to account to Parliament for their work. In the case of the OLC, the Act does not give Ministers all of their usual range of powers and sanctions. This is in the interests of the independent operation of the legal ombudsman scheme, and to avoid the risk of actual or perceived political interference in legal sector matters.

The MoJ has Framework Documents with both the LSB<sup>1</sup> and OLC<sup>2</sup>. The LSB and OLC have a Memorandum of Understanding<sup>3</sup> (MoU). Where these documents cover matters in the scope of this operating protocol, the framework agreement or Memorandum of Understanding will be followed.

This protocol will be updated to reflect the findings of the Tailored Review of the OLC and LSB when they are available.<sup>4</sup>

## Section 1 - Purpose of this document

Nothing in this tripartite protocol takes precedence over anything contained in the Act or Framework Documents. Nor does it deal with the discharge of the statutory functions of the Chief Ombudsman, a role in which the office holder is wholly independent of Government, the LSB and the OLC.

This document sets out the key principles that will create the conditions for effective and proportionate governance. This enables all three bodies to discharge effectively their respective responsibilities, in ways that minimise the risks that might arise from gaps or overlaps and maximise the collective impact of each body in delivering the objectives of the Act. It also sets how relevant functions - as set out in the Act - will operate in practice across the three bodies, and explains how all three bodies work together to deliver specific activities. It seeks not to be overly prescriptive and to allow sufficient flexibility to accommodate unexpected events.

The protocol only covers areas of work which require the involvement of all three organisations or is relevant to all three organisations. Specific areas of work involving two of the organisations are picked up in either the relevant MoJ framework document or the Memorandum of Understanding between the LSB and OLC.

## Section 2 - governance principles underpinning this protocol

Good governance requires effective partnership between the MoJ and its independent ALBs. This needs mutual recognition of the respective roles, responsibilities and accountabilities of each body.

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<sup>1</sup> [http://www.legalservicesboard.org.uk/about\\_us/lbsb\\_framework\\_document/pdf/moj\\_framework\\_agreement\\_june\\_2011.pdf](http://www.legalservicesboard.org.uk/about_us/lbsb_framework_document/pdf/moj_framework_agreement_june_2011.pdf)

<sup>2</sup> <http://www.legalombudsman.org.uk/wp-content/uploads/2014/09/OLC-Framework-Documents-Final-150302.pdf>

<sup>3</sup> [http://www.legalombudsman.org.uk/downloads/documents/work\\_other\\_bodies/20091217\\_lsb\\_and\\_olc\\_mou-FINAL.pdf](http://www.legalombudsman.org.uk/downloads/documents/work_other_bodies/20091217_lsb_and_olc_mou-FINAL.pdf)

Both the OLC and LSB derive their functions from the Legal Services Act and must operate within the Managing Public Money framework with delegated authority to spend public money from the Principal Accounting Officer of the MoJ.

Within this overarching framework, MoJ is likely to focus on governance and Managing Public Money; the LSB on its statutory oversight functions; and the OLC will seek proportionate external governance that supports effective delivery of its scheme.

### General governance principles

The general principles that underpin this agreement reflect the good practice in the way Departments and their ALBs should relate, as set out in *'Partnerships between Departments and Arm's-Length Bodies: Code of Good Practice'*:

1. **Purpose:** the purpose, objectives and roles of each body are mutually understood; reviewed on a regular basis; and clearly set out in relevant documents. There is absolute clarity about lines of accountability between the bodies to mitigate risks of misunderstanding about responsibilities and to avoid gaps or overlaps. In exercising statutory functions each body has clarity about how their purpose and objectives align with those of the other bodies.
2. **Assurance:** there will be a proportionate approach to assurance, based on each body's purpose and a mutual understanding of risk. Robust governance arrangements will be in place, and the MoJ will give the ALBs sufficient autonomy to deliver effectively. Management information exists to enable departments and arm's-length bodies to assess performance.
3. **Value:** each party will add value by sharing their skills and expertise to enhance the impact of each organisation. There will be a focus on innovation and how the bodies will work together to deliver value for money.
4. **Engagement:** governance will be characterised by a partnership approach where relationships are open, honest, constructive and based on trust. They will respect statutory roles as well as the day to day operating arrangements of each party. There is mutual understanding about each body's purpose, objectives, statutory role and clear expectations about the terms of engagement.

### Communication and cooperation

All three organisations are committed to the principle of good communication within the three-way relationship, especially where one organisation's work may have some bearing upon the responsibilities of another.

The primary aim is to make sure there is regular contact and clear communication channels between all organisations to engender trust and confidence, reduce the likelihood of inappropriate handling of communications and moderate the risk of duplication of effort.

To support the general principle of good communication, the LSB, MoJ and OLC commit to:

- minimising the risk of inconsistent or conflicting messages within individual organisations or between more than one of them; and
- wherever possible, in the interests of efficiency, use three-way meetings to cover shared interests to prevent the need for separate meetings on the same matter; and
- wherever possible, ensure timely advance consultation and sharing of information including planned public announcements which might be considered to affect the interests of the other parties.

### Independence

This protocol respects the independence of the LSB and OLC in discharging their statutory duties. The MoJ has established both organisations as executive Non-Departmental Public Bodies which are not to be regarded as:

- servants or agents of the Crown; or
- enjoying any status, immunity or privilege of the Crown.

To protect the independence of the ombudsman scheme a fundamental point is that decisions and determinations made by an Ombudsman cannot be influenced, amended or overturned by any other body except by Judicial Review. In discharging the responsibilities set out in this protocol the independence of decisions made by the Ombudsman must be protected from any influence by any of the parties.

### Section 3 - Interpretations, reviews and amendments of the protocol

This protocol will need to evolve over time to reflect key changes in the external and legislative environment and also to address lessons learned and experience. It will be a dynamic and living document.

The three organisations will jointly resolve any questions regarding the interpretation of this document. Additionally, it will be jointly reviewed at regular three year intervals.

Outside such formal reviews, any of the three organisations may propose amendments to this document at any time in the light of evolving policy aims and operational factors. The organisation requiring the amendment will draft, in consultation with the other two organisations, any proposed changes. Any changes must be approved by all three organisations.

### Section 4 - Accountabilities

The major accountabilities of each organisation appear below.

#### Office of Legal Complaints:

- accountable (via Accounting Officer) to MoJ and ultimately Parliament for the OLC's use of public money;
- must appoint a Chief Ombudsman (who may or may not be Chief Executive/Accounting Officer), setting their performance objectives and conducting annual performance appraisals;
- accountable to the LSB for its administration of the Legal Ombudsman scheme; and
- accountable to Parliament for its annual report and accounts.

#### Legal Services Board:

- accountable to the Lord Chancellor for the performance of its statutory duties, including those which it has in relation to OLC.
- accountable to Parliament (via the Minister) for appointing an OLC Chair and Board members, and for oversight of the OLC Board's performance in delivering their statutory functions;
- accountable (via its Accounting Officer) to MoJ and ultimately Parliament for its use of public money; and
- responsible for approving OLC's budget.

#### Ministry of Justice:

- accountable (via Principal Accounting Officer) to Parliament for the OLC's effective and efficient use of public money;
- designating an Accounting Officer for the OLC;
- responsible for approving the LSB and OLC leviable amount, case fees and Grant-in-Aid covering the CMC jurisdiction; and
- the Lord Chancellor is accountable to Parliament for the performance by LSB of its statutory duties, including those which the LSB has in relation to OLC.

## Section 5 - detailed notes on the practical operation of relevant activities

### 1. Appointments to the OLC Board

Schedule 15, Para. 1 of the Legal Services Act specifies that the LSB must appoint a chairman of the OLC with the approval of the Lord Chancellor, and six to eight members after consultation with the OLC chairman.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
<p>Providing appropriate recommendations to the Lord Chancellor on relevant issues regarding the OLC as outlined in the Act:</p> <ul style="list-style-type: none"> <li>The LSB has a duty to appoint (and if necessary) remove the OLC Chair with approval from the Lord Chancellor.</li> <li>The LSB has a duty to appoint six to eight members of the OLC after consultation with the OLC Chair.*</li> <li>The LSB has a power to remove a member of the OLC Board from office under certain specified conditions. The Chair of the OLC may only be removed from office with the consent of the Lord Chancellor and the LSB must consult the OLC Chair before removing any other member.</li> <li>The LSB has a duty to remunerate the OLC Chair and members of the OLC Board.</li> </ul>			X	OLC MoJ

The LSB will perform its statutory responsibilities to make appointments to the OLC in line with the requirements of the Act and respecting the principles of the Cabinet Office Governance Code for Public Appointments.

Appointing OLC Chair – the LSB will consult the Lord Chancellor and the Justice Select Committee on the person specification and the process to be followed to identify candidates. Informally, the LSB will also seek the views of the OLC via the Chair of the OLC’s Remuneration and Nomination Committee.

Appointing OLC members – LSB will consult the OLC Chair on the composition, skills and experience required for members of the OLC. The OLC Chair will be a member of the LSB’s appointment panel for OLC members.

On an annual basis, the OLC Chair will appraise each OLC member and will provide each appraisal to the LSB.

LSB will consider reappointments at the end of first terms of office and this consideration will be informed by the OLC’s views on OLC board members’ skills, experience and knowledge, and that these reflect not only its current jurisdiction, operating environment and challenges, but also any potential future risks and changes in focus that might require different skills.

If the LSB considers that the OLC Chair or a member should be removed from office, it will consult the Lord Chancellor (for the OLC Chair) and the OLC Chair (for a member of the OLC).

As a matter of good practice, the LSB will keep MoJ officials informed at all stages of any appointment, reappointment or removal process.

The LSB is required to pay the OLC Chair and members. This includes travel and subsistence allowances, and OLC members must comply with the LSB's expenses policy.

## 2. OLC corporate governance

The OLC will follow the corporate governance code and generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it. OLC Board members will observe the Seven Principles of Public Life and be bound by the LSB Complaints and Disciplinary Policy for Board Members.

If at any point the LSB is concerned about the OLC's performance of its statutory functions, it will inform the MoJ of the circumstances and any planned actions at either its quarterly meeting with the MoJ team or an ad hoc meeting if necessary. Usually the LSB will first discuss the issues with the OLC. The OLC itself is expected to bring any breaches of good governance to the attention of the MoJ and LSB.

## 3. Appointments of key staff

S122 of the Legal Services Act requires the OLC to appoint a person to act as Chief Ombudsman. This may or may not be the same person as the OLC's Accounting Officer and Chief Executive Officer, who may or may not be designated as the OLC's Accounting Officer by the Principal Accounting Officer. The OLC/MoJ Framework Agreement covers the role of the Accounting Officer.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
The Principal Accounting Officer of the MoJ is responsible for designating the appropriate person as the OLC's Accounting Officer.		X		OLC
Appointing a Chief Ombudsman and assistant ombudsmen (with the consent of the Chief Ombudsman).	X			
Appointing a Chief Executive. Setting performance objectives and remuneration terms for the Chief Executive.	X			

## 4. OLC performance

LSB and MoJ oversight of OLC's performance will be proportionate and joined-up, and as far as possible link to the OLC's own performance management framework. Crucially, it should reflect the OLC's strategy and direction and ensure measures reflect a balanced view of performance against strategic objectives.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
The LSB and OLC will hold quarterly performance review meetings.			X	OLC (and sometimes MoJ)
The MoJ will hold regular Business and Assurance meetings with the OLC (frequency to be determined as part of the annual Impact and Support Assessment process – normally twice yearly)		X		OLC (and sometimes LSB)
The Chairs and CEOs of the OLC and LSB will meet regularly – normally quarterly.	X		X	
The LSB Chair will conduct the annual performance appraisal of the OLC Chair.			X	OLC
Setting KPI's for the Legal Ombudsman, unless directed under S120/121.	X			
S120 allows the LSB to require the OLC to prepare and give the Board, within a specified period, a report in respect of any specified matter relating to the functions of the OLC, which it must publish.			X	OLC
S121 allows the LSB to set, or direct the OLC to set, one or more performance targets relating to the performance by the OLC of any of its functions.			X	OLC

The OLC will establish an internal performance management framework to track the extent to which it is delivering its strategy and business plan objectives. This will inform the work of its Management Team and performance discussions at each meeting of the OLC. All OLC Board papers, including performance reports, will be shared with the LSB.

The OLC is answerable to the LSB for its performance in delivering its statutory functions and also to Parliament to which it presents its Annual Report and Accounts.

If the LSB exercises its Section 121 right to set one or more performance targets for the OLC or to direct the OLC to set one or more performance targets relating to the performance by the OLC of any of its functions, the LSB and OLC must publish any targets it imposes or is required to set. The LSB will ensure that any targets set, and any reporting requirements, are clear and appropriate.

The MoJ will hold regular Business and Assurance Meetings with the OLC at a frequency to be determined as part of the annual Impact and Support Assessment. These meetings will act as part of the mechanism for assuring the MoJ Principal Accounting Officer that the OLC's designated Accounting Officer is complying with Government and the MoJ controls and that the OLC's resources are used efficiently and effectively to deliver its statutory objectives. The LSB will hold quarterly performance review meetings with the OLC involving the OLC lead on the LSB Board and the performance lead of the OLC Board, supported by the Executive of the respective bodies. The purpose of these meetings is to discuss OLC performance and to provide the LSB Board with assurance about the OLC's administration of the scheme and its performance. Where possible, the performance discussion will involve the MoJ as well as the LSB.



Where the focus of the above two meetings (with MoJ and with the LSB) overlap a joint meeting will be convened to discuss the issue.

Chairs, CEOs and the OLC Chief Legal Ombudsman (CLO) also meet quarterly.

## 5. Strategic and planning documents

Effective communication and engagement is critical when the three parties to this protocol undertake their business planning. While each party must remain independent in producing their strategies and business plans, effective communication and engagement will help ensure coherence and avoid the risks of conflicting messages. Ongoing meetings and engagement will ensure delivery of strategic plans remains on track and if this is not the case there is a good understanding as to the underlying causes.

The OLC will consult the MoJ and LSB informally on its draft strategy and corporate planning documents, the issues to be included, the timetable for preparation and publication and the communications plans for formally consulting stakeholders. The corporate and business plan contents will reflect the OLC's statutory duties and, within those, its contribution to the strategic objectives of the MoJ. The business plan of the OLC will be the subject of formal consultation. Typically, OLC will initiate a stakeholder consultation on its strategy and business plan in January or February, and publish its final corporate plan in March or April. OLC will ensure advance engagement with the MoJ and LSB prior to publication, and will encourage the engagement of LSB and MoJ during the consultation on its plans.

Similarly, OLC, MoJ and LSB will contribute constructively to each other's strategic planning in order to meet the good governance principles underpinning this protocol, both prior to publication of any consultation documents and during the formal consultation stages.

Periodically, the Chairs of the OLC and LSB Audit and Risk Assurance Committee may meet to discuss common risks, and will invite a member of the MoJ partner team to attend such meetings.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
Carry out an annual risk analysis to monitor the status of the OLC in terms of the appropriate oversight, as required by the MoJ Arms' Length Body Governance Division.		X		OLC LSB
Carries out a formal review of the Framework Document in consultation with the OLC and LSB, every three years ( <i>the next formal review will be in 2018</i> ).		X		OLC LSB
The Lord Chancellor or relevant Minister will formally meet the Chairman (CEO/Chief Ombudsman and/or Accounting Officer may also be required to attend) at least twice each year to discuss the OLC's current and future activities.		X		OLC
Submit annually to the MoJ and LSB a draft of its business and strategic plan (covering one year for the business plan and three years ahead for the strategy).	X			MoJ LSB
MoJ team to meet OLC staff on a quarterly basis.		X		OLC
The OLC and LSB Chairs will meet annually with the relevant MoJ team to review the operation of the arrangements set out in this protocol.	X	X	X	

## 6. OLC annual report and accounts

The OLC prepares its statements of account for audit, alongside its annual report. The annual report and accounts is presented as a single document. The draft annual report accounts are considered by the OLC Audit and Risk Assurance Committee, and are approved by the OLC Board.

S118 of the Legal Services Act requires the OLC to prepare an Annual Report for each financial year, which must include an annual report prepared by the Chief Ombudsman, and to give that report to the LSB. The LSB must then give that report to the Lord Chancellor who in turn must lay before Parliament. The report must deal with any matters as the LSB may from time to time direct.

Schedule 15, paragraph 26 of the Legal Services Act requires the OLC to keep proper accounts in accordance with directions given by the Lord Chancellor with the agreement of the Treasury. The OLC must present its statement of accounts to the LSB each year who must provide them to the Lord Chancellor and Comptroller and Auditor General. These are in turn laid before Parliament.

The accounts are prepared in line with the requirements of the Financial Reporting Manual (FReM) and other directions or requirements set down by the Lord Chancellor. The OLC will provide both draft and final versions of the OLC's accounts to the MoJ Corporate Finance team in charge of preparing the Department's Annual Report and Accounts in accordance with the MoJ Corporate Finance team's accounts production timetable.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
Prepare an Annual Report and statement of accounts for each financial year and pass to the LSB, which deals with: <ul style="list-style-type: none"> <li>a) the discharge of the functions of the OLC;</li> <li>b) the extent to which, in the OLC's opinion, it has met the regulatory objectives; and</li> <li>c) such other matters as the Legal Services Board may from time to time direct.</li> </ul>	X			LSB
Pass the Annual Report to the Lord Chancellor.			X	MoJ
Give a copy of the statement of accounts to the Comptroller and Auditor General and Lord Chancellor.			X	OLC
Provide a draft and final version of the OLC's accounts to the MoJ Corporate Finance team in charge of preparing the Department's Annual Report and Accounts in accordance with the MoJ Corporate Finance team's accounts production timetable.	X			MoJ
Laying the OLC's annual report and accounts before parliament (para 26 of Schedule 15 and section 118 of the Act).		X		OLC

The OLC will share a copy of each statement of accounts with the LSB before it is laid before Parliament, and will give a copy of the statements to the LSB before the end of the month of August following the financial year to which the statement relates. In practice, sharing the draft can be done either by correspondence or at a formal LSB Board meeting. The approach will depend on the timetable in each year. Both the OLC and LSB will be flexible and pragmatic as to how this is handled, and will discuss and agree the approach in advance, with a clear project plan and timetable agreed no later than the end of April in each year.

If the timetable will not allow the draft accounts to be discussed at a formal meeting of the LSB Board, a well-developed draft can be shared with the LSB by correspondence in sufficient time to accommodate discussion before the final accounts are published with the annual report. This would leave substantive discussion of the accounts for a meeting of the LSB Board after publication.

The LSB is formally required to provide the statements of accounts for the previous financial year to the Lord Chancellor and C&AG before the end of August in each financial year. In practice, the OLC will provide the copies directly to the Lord Chancellor and to the Comptroller and Auditor General (C&AG) on behalf of the LSB, copying in the LSB.

The Comptroller and Auditor General (C&AG) examines, certifies and reports on statement of accounts, and provides their report to the Lord Chancellor. The Lord Chancellor must lay before Parliament the annual report and accounts and the C&AG's report on the statement of accounts.

## 7. The OLC's annual budget

Schedule 15, para 23 (1) of the Legal Services Act requires the OLC, before the start of each financial year, to adopt an annual budget which has been approved by the Legal Services Board, covering all of the OLC's expenditure. The budget must include an indication of the distribution of resources and the amounts of income the OLC expects from the operation of the scheme. The OLC may, with the approval of the LSB, vary the budget for a financial year at any time after its adoption. The annual budget must include an indication of:

- a) the distribution of resources deployed in the operation of the ombudsman scheme, and
- b) the amounts of income of the OLC arising or expected to arise from the operation of the scheme.

Annually, the LSB will set acceptance criteria for the budget and will use reasonable endeavours to provide these to the OLC in draft form before the OLC presents its first budget paper to the LSB. The LSB may revise the criteria following this initial presentation.

### *Approving the OLC's annual budget (schedule 15, para 23)*

The process of agreeing the annual budget is complicated by the OLC's different jurisdictions, and the different sources of capital and revenue funding. It is also complicated by the fact that the Act requires the Secretary of State to approve the leviable amount, which covers the majority of the OLC's budget, as well as any changes to case fees. The Secretary of State also approves any amount given as grant in aid. The LSB will seek therefore assurance that the MoJ is content with the budget requirements for all three of the OLC's budget elements:

Legal jurisdiction (revenue)	OLC's legal jurisdiction is funded by the levy on the approved regulators and case fees charged
CMC jurisdiction (revenue)	The CMC jurisdiction is funded by Grant-in-Aid ultimately recovered from industry through the Claims Management Regulator (via the Lord Chancellor's fee) and case fees charged.
Capital	OLC must bid to the MoJ for capital funding, which it receives directly from the Treasury (revenue costs of capital expenditure are met by the depreciation charges in the revenue budgets which are funded by levy and the Lord Chancellor's fee).

The need to legislate for the Lord Chancellor's fees and meet the costs of the grant in aid covering the majority of CMC jurisdiction costs, means that the deadline for agreeing the expected budget for the CMC jurisdiction is much earlier. This allows time to draft regulations and their passage through Parliament. This requires the OLC to work closely with the MoJ in advance of discussions with the LSB on the overall budget, and final approval by LSB and MoJ of the overall OLC budget and leviable amount.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
Seeking approval for the OLC's annual budget.	X			LSB MoJ
<p>The Principal Accounting Officer in the MoJ is accountable to Parliament for any grant-in-aid or other public funds given to the OLC and is also responsible for advising the Lord Chancellor on:</p> <ul style="list-style-type: none"> <li>the conditions under which any public grant funds are paid to the OLC;</li> <li>how the OLC's objectives and targets fit with and contribute to the aims and requirements of the Act;</li> <li>an appropriate budget for the OLC;</li> <li>approval of leviable amounts and fees;</li> <li>paying the OLC such sums, through grant-in-aid, grant, or other funds as he/she deems appropriate for meeting the OLC's expenditure and securing Parliamentary approval; and</li> <li>the efficiency and effectiveness of the OLC's delivery, and the adequacy of its governance and controls mechanisms.</li> </ul>		X		OLC LSB

In determining the annual budget, MoJ, LSB and OLC will jointly agree the process, timetable, sequencing and format to be adopted. Crucially, the process of agreeing the annual budget needs to allow appropriate discussion, scrutiny and challenge in the correct sequence, while enabling the OLC to operate with sufficient clarity to allow effective planning and service delivery. The OLC also runs a formal external consultation on its annual budget and business plan.

The agreed process for agreeing the budget will need to mitigate the following risks which could arise if there are delays in approving the budget:

- negative impact on business continuity and operational delivery of the scheme;
- irregular expenditure if timely Parliamentary authority is not provided; and
- efficient business planning and management decisions about resources and service delivery.

To ensure these risks are mitigated effectively, the process of agreeing the annual OLC budget will operate as follows:

<b>Activity</b>	<b>Indicative timing</b>
OLC submits a paper to the Lord Chancellor setting out the CMC budget for the following financial year having first consulted the LSB	Around August
The LSB will provide the OLC with a copy of its draft acceptance criteria for the budget	End of October
OLC presents a paper to the LSB on initial budget principles for the following financial year, and an indication of the revenue and capital budgets, key assumptions and risks for both the legal and CMC jurisdictions; the LSB may revise the acceptance criteria following this initial discussion and will share these with the OLC.	November
OLC Chair and senior executives take part in a discussion on the budget principles at an LSB Board meeting before the draft OLC budget is published for consultation	November
OLC submits its medium-term financial plan (MTFP), including the following year's budget, to MoJ's requirements, typically in December; the MTFP will reflect the budget principles presented to the LSB	Typically in December
OLC runs a formal external consultation on its budget and business plan for the following financial year, either as a separate consultation or as part of a consultation on strategy	Typically in January or February
LSB and MoJ provide any further comment or feedback to the OLC during the consultation period	
OLC Board discusses and agrees its final budget for the following financial year taking account of the consultation responses	Late February or early March
OLC presents a paper on its final budget requesting LSB Board approval; in the interests of business efficiency, the significant earlier dialogue and engagement should facilitate approval of the budget at this stage	March
MoJ confirms the OLC's revenue and capital budget for the following financial year, and Lord Chancellor agrees the levy can be charged for the amount of the budget	Before the end of March

There is a risk that MoJ or LSB might approve the OLC budget but the other did not. MoJ and LSB commit to communicating with each other so that the OLC is able to operate efficiently and effectively and maintain continuity of service.

#### *Varying the budget during the financial year*

In certain circumstances, the OLC may need to amend the agreed budget during the financial year, in particular given uncertainties about the level of bad debt write-offs associated with case fees, and unbudgeted costs associated with legal challenge which would not be included in the initial budget. Changes may also be necessary if OLC takes on new functions or ceases to take on others during the financial year, including functions transferred under Machinery of Government changes.

For the CMC budget, the arrangements for altering the CMC budget in year are set out in paragraphs 82-83 of the Framework Agreement between the MoJ and OLC. These arrangements require a business case to be agreed with the MoJ and then presented to the LSB for approval in line with paragraph 23 (2) of schedule 15 to the Act.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
The OLC will provide monthly financial reports to the MoJ.	X			MoJ
In the event the OLC is wound up, put in place arrangements to ensure the orderly winding up of the OLC, which will require primary legislation.		X		OLC LSB

Changes in budgets are subject to the Supplementary Estimates process, and need to be presented to Parliament, which usually takes place in January or February of each year. This means that likely budget variations usually need to be picked up by the end of November.

If the OLC requires a change in the agreed revenue or capital budgets, the following process will apply:

- the OLC will discuss and agree the need for the change, and the value of the change;
- the OLC will share a short business case explaining the required change with the rationale for it, and share this with both the LSB and MoJ, requesting initial feedback which the bodies will provide within ten working days;
- the OLC will prepare a short note requesting formal approval of the change by the LSB; and
- if the request is approved, the OLC will liaise with the MoJ to ensure its inclusion in the Supplementary Estimates.

## 8. The levy

The LSB makes rules providing for the imposition of the levy on leviable bodies to raise a sum to cover the leviable expenditure of the OLC. The levy is payable to the LSB. The LSB must secure the consent of the Lord Chancellor for its rules on the levy.

“Leviable” OLC expenditure is the difference between the expenditure of the OLC and the amounts the OLC pays in to the Consolidated Fund in respect of case fees, and any costs recovered in respect of voluntary jurisdictions and charges for providing copies of the scheme rules.

Part 7, section 174(3)(b) of the Act requires the LSB to get the approval of the Lord Chancellor for the leviable amount payable for a particular period. When combined with the requirement for the Lord Chancellor to approve case fees, this effectively requires the MoJ to approve the OLC’s budget.

Part 7, section 174A provides for the need, in determining the leviable OLC expenditure, to disregard any expenditure incurred or income received in respect of the exercise of the OLC’s functions in relation to claims management services.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
Providing appropriate recommendations to the Lord Chancellor to recover leviable LSB and OLC expenditure.			X	OLC MoJ

## 9. Day-to-day financial oversight and compliance with Managing Public Money

The Accounting Officer of the OLC is responsible for managing the organisation's finances in accordance with the rules of Managing Public Money as well as the rules of the levy as set out in the Act.

In its role as sponsoring department, the MoJ is accountable for the OLC's use of public money. The MoJ use the following mechanisms to assure themselves of the OLC's effective financial management:

- using the Managing Public Money protocol to assure MoJ that proposed expenditure is proper and regular;
- securing Parliamentary authority for the use of public funds before each year's expenditure can take place through budget cover in the collectively agreed multi-year budgets and ensuring adequate Treasury consent for planned expenditure; and
- Parliamentary authorisation for each year's drawdown of funds through an estimate, which is presented to Parliament for the department's annual budget (consolidating its ALBs) are within the statutory powers and within the government's expenditure plans.

The MoJ will support OLC's Accounting Officer in discharging these accountabilities by:

- ensuring that OLC is kept up-to-date on the relevant departmental processes, policies and changes that affect them such as the emergency spending controls i.e via ALB bulletins;
- issuing BV letters confirming delegated budgets, and ensuring that OLC adhere to the financial transaction limits; and
- as part of the delegation process for each financial year, providing an updated delegation scheme specifically setting out what the OLC can spend/commit to without requiring approval.

## 10. Modification of scheme rules

Section 155 of the Act requires the OLC to obtain the consent of the LSB to its scheme rules. The consent of the Lord Chancellor is also required to any rules relating to charges payable by respondents. Section 136 sets out that the rules may, among other things:

- a) provide for the OLC to reduce or waive a charge in such other circumstances as may be specified;
- b) set different charges for different stages of the proceedings on a complaint;
- c) provide for charges to be wholly or partly refunded in such other circumstances as may be specified; or
- d) provide that if the whole or any part of a charge is not paid by the time by which it is required to be paid under the rules, the unpaid balance from time to time carries interest at the rate specified in, or determined in accordance with, the rules.

If the OLC is considering changes in the scheme rules relating to charges, it will discuss these with the MoJ and agree the approval process and timetable. In line with the MoU between the OLC and LSB, if either party is considering seeking any changes to the scheme rules, they will actively consult and seek to involve the other in that decision at the earliest possible point.

Section 156 of the Act allows the LSB to direct the OLC to modify its scheme rules, providing certain notification requirements are complied with.

Description	Responsible for initiating action			Also involved
	OLC	MoJ	LSB	
The LSB has the power to direct the OLC to modify its scheme rules.			X	OLC MoJ
The OLC needs to request and obtain the consent of the LSB to any changes in its scheme rules.	X			LSB
The LSB must respond to requests for consent to changes to the OLC's scheme rules.			X	OLC
The Lord Chancellor must consider and take a decision on whether to provide consent for specific changes to rules under section 136 – charges payable by respondents (after the LSB has also consented).		X		OLC LSB
The OLC must seek the consent of the LSB and Lord Chancellor to the case fee structure payable by complaint respondents as outlined under section 155 (1)(b).	X			LSB MoJ