



Office for Legal Complaints Consultation – “Business Plan and Budget Consultation 2021/22”

A Response by

The Chartered Institute of Legal Executives (CILEX)

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1. Introduction

- 1.1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. As the Approved Regulator under the Legal Services Act 2007, CILEx has delegated these regulatory powers to the independent regulator CILEx Regulation Ltd.
- 1.2. As it contributes to policy and law reform, CILEx endeavours to ensure relevant regard is given to equality and human rights, and the need to ensure justice is accessible for those who seek it.

2. Q1. Have the right priority areas for the Business Plan been identified? If not, what should the Legal Ombudsman be addressing?

- 2.1. CILEx welcomes the opportunity to comment on the Legal Ombudsman (LeO) Business Plan and Budget. We agree that the correct starting point for the development of the Business Plan is the growing need to improve efficiency and effectiveness of complaints handling in light of mounting complaint backlogs and with the continued uncertainty that COVID-19 brings¹. Therein, we recognise the rationale behind increased investment within staffing and resourcing as a short-term measure for *addressing* these issues, however, are yet to be convinced that the priorities outlined within the Business Plan shall amount to sustainable measures for *resolving* these issues longer-term.
- 2.2. As the Office for Legal Complaints (OLC) are no doubt aware, the impacts of COVID-19 have been far reaching, and in the context of the legal sector, have seen threats to the financial longevity of many providers. The net result is that many practitioners and firms are now at risk of closing their doors at a time where public demand for legal services is dramatically increasing. Rationalising allocation of any increases to budget at such a financially sensitive time will therefore largely depend on how well these priorities are able to realise the transformational change needed to future-proof more efficient and effective complaints handling now and into the future. In this context, there is even more of an imperative to explain as fully as possible a near 20% (£2.4m) budget increase to £15.26m for 2021/22.
- 2.3. With this in mind, CILEx notes that majority of the Business Plan's focus and core spend (£10.82m) has been attributed towards rebuilding human resources. In comparison, there is a stark absence of greater detail as to how these priorities intend to go further in evolving wider working practices and recalibrating business operations to address the longstanding under-delivery of complaints service; nor how the OLC will manage a recruitment exercise on a scale they never before undertaken. Whilst we note that priority two is most akin to transformational

¹ Albeit CILEx notes that COVID-19 has not had as significant an impact on workload as might have been anticipated, nor as has been felt by the wider profession and justice system. This is demonstrated by both the OLC's case volume graph on page 6 of the consultation document, and as referenced within the horizon scan: "*Demand. This has remained consistent despite the impact of Covid-19 on legal transactions in certain areas*" (OLC, *Business Plan and Budget Consultation 2021/22*, p.7).

thinking, aimed at developing alternative delivery models and innovative new business practices, there is only limited information given as to the inefficiencies that these new innovations would be looking to address and/or what potential solutions are being considered in this respect.²

- 2.3.1. Similarly, an additional reference is made for the investment of £3.86 million for “Corporate functions, transformation and business support”³ of which no further details are provided.

3. Q2. Is the budget set at the right level to allow the actions in the Business Plan for 2021/22 to be completed?

- 3.1. In reaching the proposed budget, CILEx is particularly keen to better understand the extent to which the OLC’s forecasting has taken account of emerging trends. These include:

- 3.1.1. Greater complaints handling amongst the profession as more and more first tier complaints are now being dealt with in-house⁴; we are pleased to see firms fulfilling their role within complaints management and interested to know how the subsequent benefits this provides to LeO in relieving complaint volumes has been factored into the proposed budget.

- 3.1.2. Wider suggestions for the regulatory framework whereby, as advocated by the Ministry of Justice and Legal Services Board, reforms may seek to extend access to Ombudsman services beyond current providers so as to encompass the unregulated market. Where these reforms are realised, CILEx recognises that the demand on LeO shall grow significantly and seeks assurance that the budgeting outlined within this consultation would be comprehensive of any such changes.⁵

- 3.2. A lack of detail is further felt around the interdependencies between all three priorities and how this may impact upon forecasting and budgeting; particularly how new delivery models might interact with priority one, which forecasts budgeting for staff and resources on the basis of LeO’s current operating model. For example, if investments made under priority two are able to realise the staffing and resource benefits that innovation and new technologies can bring, might this see decreased expenditure under priority one? CILEx would welcome greater transparency and

² The consultation makes reference to “*Build[ing] on existing exploration work and implement[ing] technology projects which support an effective and timely investigation process and consumer expectations of service delivery*” (OLC, *Business Plan and Budget Consultation 2021/22*, p.13). More detail around the exploration work undertaken thus far and possible technologies/functionalities being considered, would help improve understanding of LeO’s intentions to safeguard effective service delivery now and into the future.

³ OLC, *Business Plan and Budget Consultation 2021/22*, p.5.

⁴ Solicitors Regulation Authority, Research Findings (July 2019) [<https://www.sra.org.uk/sra/how-we-work/reports/first-tier-complaints-report>]: the findings highlighted that 81% of First Tier Complaints had been dealt with in-house in 2018 as compared with only 72% in 2012.

⁵ CILEx notes the Legal Services Board’s own observations in this regard, as follows: “*We consider that public confidence would be enhanced if consumers could complain to the Legal Ombudsman about any provider in the market. This would close an important gap in consumer protection and help unregulated businesses to compete more effectively. Such a step would require primary legislation and there are a series of issues that would first need to be resolved; this includes addressing the complaints backlog at the Legal Ombudsman.*” Legal Services Board, *Reshaping Legal Services: A Draft Strategy for the Sector*, (December 2020), p.18.

clarity as to how the budgeting of these core priorities has been conceptualised to bring about sustainable change in a cost-effective and cohesive fashion.

4. Q3. Do you have any learning and experience to support the innovation work being undertaken under priority two?

- 4.1. CILEx would be interested to better understand the parameters associated with the proposed budget in respect of priority two. We are conscious that whilst it is this priority that harbours the most potential to revitalise LeO and create transformational change, it is also this priority that has been allocated the lowest expenditure (£0.15m). In light of past learning and experience, the costs associated with innovation and technology-driven projects are progressive; with costs generated at each stage of the process from research and development, to trial and testing, to implementation and post-implementation monitoring. These financial undertakings, alongside the associated costs required in training and development, need to be factored in at the outset of budgeting to safeguard that new innovations do not quickly generate further expense down the line.
- 4.2. Indeed, the consultation is ambiguous as to whether the proposed budget allocated to the business plan is all-encompassing or whether it is expected to warrant additional funding in due course. By virtue of the “multi-year approach”⁶ taken, with suggestions of a forecasted budget of £16.16 million for 2022/2023 (an additional rise to the £15.26 million request for 2021/2022), there is a concern that the initial increase to expenditure may continue to see escalating costs for the next few years, particularly where projects such as those under priority two are likely to instigate additional funding needs. As the profession continues to face increased financial risk in the midst of COVID-19, and indeed are likely to continue feeling those effects for years to come, it is paramount that clarification and transparency as to the level of financial contributions needed, is presented to the profession at the outset.

For further details

Should you
require any
further
information,
please contact;

Chandni Patel
Policy Manager
chandni.patel@cilex.org.uk
01234 845740

⁶ OLC, *Business Plan and Budget Consultation 2021/22*, p.8.