

**Office of the Legal Services
Complaints Commissioner**

**Summary of
the Legal Complaints Service &
the Solicitors Regulation Authority's
performance and progress against the
Commissioner's targets and
recommendations during the period
1 April 2009 to 31 December 2009**

November 2009 update

Summary of LCS & SRA performance & progress against the Commissioner's targets & recommendations during the period 1 April to 31 December 2009.

In accordance with section 52(2)(c) and 52(2)(d) of the Access to Justice Act 1999, the Commissioner wrote to the Law Society on 25 February 2009, formally setting targets and making recommendations for the Legal Complaints Service (LCS) and the Solicitors Regulation Authority (SRA) for period 1 April 2009 to 31 December 2009.

In setting these targets, the Commissioner stated that her key priorities for improving complaints handling for the consumer and the profession, as the LCS nears closure and prepares for handover to the Office for Legal Complaints (OLC), would focus on improving and sustaining timeliness and reducing the work in progress levels.

Based on information provided to the Commissioner, the latest assessment of LCS and SRA performance against the 3 target areas and 5 recommendations set for the period 1 April 2009 to 31 December 2009 is as follows:

Target T1 – LCS to investigate and conclude at least 87% of cases within 6 months of receipt.

- LCS reports that during November 2009 it closed 86% of the 1,317 cases it received in May 2009 (1,133 cases were closed within 6 months of receipt).
- Since 1 April 2009, LCS reports that it has closed 86% of the 9,955 cases it received during the period October 2008 to May 2009 (8,568 cases were closed within 6 months of receipt).

Target T2 – LCS to investigate and conclude 100% of cases within 12 months, apart from in exceptional circumstances.

- LCS reported it had 43 cases open over 12 months old at the end of March 2009.
- By the end of November 2009 LCS reports that it has 84 cases open over 12 months old, of which 56 are insurer's cases, where the cases have remained open to pursue recovery of redress from insurance companies and 17 are Coal Health Compensation complaints. This is an overall increase of 41 cases over 12 months old since the start of April 2009.

Target T3 – LCS to maintain work in progress levels at 3,445 by 31 December 2009

- LCS reported that there were 3,739 cases open within its complaints handling system at the end of March 2009.
- By the end of November 2009, LCS reports that there are now 3,535 cases open within its complaints handling system. Although this is a reduction of 337 cases since last month, and 204 cases less than it had at the start of April 2009, it is still 90 cases above the target level.
- LCS reports that 716 of the 3,535 cases open within its complaints handling system at the end of November 2009 are Coal Health Compensation complaints (20%).

Recommendation R1 - The Law Society is responsible for delivery of the LCS complaints handling plan. It should ensure that it has sufficient and adequate systems and processes in place to monitor and evaluate LCS performance against this plan on a monthly basis. The Law Society should ensure that quality is maintained, whilst closely monitoring intake, closures & LCS resource levels with a view to taking early action as appropriate.

- Letter received from the Law Society dated 30 March 09 states that it will ensure it has adequate systems and processes in place to monitor and evaluate LCS performance against its plan on a monthly basis.
- In its recent letter of 24 November 09, the Law Society states it has been working with LCS to ensure it has adequate systems and processes in place to deliver a high quality complaints service, whilst maintaining the LCS Board's independence in all matters of complaints handling. The Law Society states it is important that the timeliness and quality of complaints handling is maintained at a high level in the lead up to the establishment of the Office for Legal Complaints. Monitoring performance against specific targets is a crucial tool for doing this.

Recommendation R2 - The Law Society should ensure that the LCS measurement of its quality target is based on a representative sample of cases as now, and NOT as a sample of file reviews as stated in the LCS plan.

- Letter received from the Law Society dated 30 March 09 states that that it has decided to adopt the approach to measurement of the quality target which LCS recommend as it believes that this will provide a sound sample, whilst keeping to a minimum the costs of the monitoring exercise itself.
- The Commissioner does not believe that the sampling method adopted by LCS is as robust as the recommendation requires. She will, however, continue to monitor how LCS performs against its quality measure.
- Letter received from the Law Society dated 24 November 09 states the LCS method of measurement of its quality target is not yet fully satisfactory. In previous years the LCS has employed specific quality assessors to analyse case data. It now (quite rightly) relies on managers who naturally review a much higher proportion of case files from new or underperforming members of staff. This will have skewed the data. The Law Society states it has asked LCS to consider this matter, and understands that the LCS are working with internal auditors to develop a method for weighting the results, to enable a more reliable picture to be painted.
- During the 3rd quarter (July to September 2009) LCS reports that it achieved a fair outcome and service standard, without significant failings, in 78% of cases closed.
- Year to date (January 2009 to September 2009) LCS reports it is currently achieving a fair outcome and service standard, without significant failings, in 85% of cases closed, against its own internal measure of 90%.

Recommendation R3 - The Law Society should ensure that the LCS continues to aim for the current Legal Services Ombudsman (LSO) target set by the Commissioner for 2008/09, and that 78% or more of referrals to the Legal Services Ombudsman result in the LCS handling of the case being upheld.

- Letter received from the Law Society dated 30 March 09 states that it will ensure LCS provides information to enable its performance in relation to this recommendation to be measured.
- The Commissioner will continue to report LCS performance against the LSO measure.
- In its letter of 24 November 09, the Law Society states the statistics for October show that 68% of referrals to the Legal Services Ombudsman result in the handling of the case being upheld. The Law Society states it would welcome it if the LCS improves on this performance during the next year, although it does not think this is the best proxy for judging the quality of case handling.
- During November 2009 LCS reports that it achieved a 66% LSO satisfaction rating.
- LCS reports that it is currently achieving a year to date (April 2009 to November 2009) LSO satisfaction rating of 71%. This is 7 percentage points below the recommended 78% level.

Recommendation R4 - The Law Society should ensure that LCS takes action to reduce the ratio of support staff against operational staff within its organisation more in line with the 15% - 25% of support staff shown in the benchmarking figures identified in the PA Consulting Report, 'Designing the Office for Legal Complaints' dated 28 March 2008, rather than the 43% of support staff it proposes in its plan.

- Letter received from the Law Society dated 30 March 09 states it will continue to work with LCS to seek economies wherever they can be achieved without damaging the service provided on individual complaints. It has already agreed with LCS a significant reduction in its policy work, in view of the imminence of the establishment of the OLC. It does not propose to set any specific target in relation to ratio of support staff against operational staff.
- Letter received from the Law Society dated 24 November 09 states the LCS currently employ 4% fewer support staff than is currently budgeted for. As stated in March 09, it decided against setting specific targets in relation to ratio of support staff against operational staff. While it always encourages the LCS to seek economies wherever this can be achieved without impinging on the progress which LCS has made in recent years, the Law Society states it does not think targets of that sort would be helpful.
- At the end of March 2009 there were 363.03 FTEs in post within LCS. By the end of November 2009, this had reduced by 17.66, to 345.37 FTEs in post.

	Management	Caseworkers	Support	TOTAL
March 2009	56.39 (16%)	202.22 (56%)	104.42 (29%)	363.03
November 2009	53.69 (16%)	202.11 (59%)	89.57 (26%)	345.37

- LCS reports that the number of staff in post is currently 36.75 FTEs (9.6%) below the monthly establishment figure of 382.12 FTEs it expected to have in post by the end of November 2009. During the month LCS states there were 4 leavers and 7.4 new starters.

Recommendation R5 – The Law Society should encourage SRA to aim to investigate and conclude, prepare fully and lodge with the Solicitors Disciplinary Tribunal (SDT), all cases within 12 months. This would be an improvement on the current target of 18 months, which SRA should maintain as a maximum.

- Letter received from the Law Society dated 30 March 2009 stating that the Law Society and SRA share the Commissioner's concern that cases should be investigated, prepared fully and, where appropriate lodged before the SDT promptly. The Law Society state that SRA are constantly seeking to improve the timeliness of their processes without compromising the quality of their investigations and case preparation. It also states it is content with the targets currently operating, namely to lodge 70% of cases with the SDT within 6 months of receipt, and 95% within 12 months.
- In its letter of 24 November 09, the Law Society states, over the year SRA has been seeking to improve the timeliness in its referral process to the SDT.
- Since April 2009 SRA reports that it has lodged 21 cases with the SDT. Of these, it reports that 5 cases were lodged within 12 months, 12 cases were lodged within 13-18 months, and 4 cases took over 18 months to lodge the case with the SDT.
- SRA also reports that there are currently 26 purely conduct based Tribunal matters where disciplinary proceedings have yet to be issued. 7 of these matters are less than 12 months old, 15 are between 13 – 18 months old, and for 4 cases it has been over 18 months since the original conduct matter was opened.