

THE COMMISSIONER'S TARGETS FOR COMPLAINTS HANDLING BY THE LAW SOCIETY FOR THE PERIOD 1 APRIL 2009 TO 31 DECEMBER 2009

Further to my letter of 23 January, and in accordance with section 52(2)(c) and 52(2)(d) of the Access to Justice Act 1999, I am now writing to inform you that I am formally setting targets and making recommendations which will help towards the effective and efficient handling of complaints by the Law Society for the period 1 April 2009 to 31 December 2009.

During this target development and setting process I have consulted with, and taken into consideration, a number of stakeholder views, including consumer groups and those of the Law Society, the Legal Complaints Service (LCS), and the Solicitors Regulation Authority (SRA), to help ensure the targets cover the areas which continue to be key priorities for improving complaints handling for both the consumer and the profession.

I am pleased that the LCS has found the target areas I have proposed as appropriate and that it is broadly in agreement with the levels at which I have set them. I have taken into consideration all the information now provided to me by the Law Society and the LCS, and in setting the targets I have considered fully the complaints handling plan put forward by the LCS and the internal objectives set within it.

Targets

My 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), focus on improving and sustaining timeliness and reducing the work in progress levels. For these reasons, the targets and recommendations I am now setting for the period 1 April 2009 to 31 December 2009 are as follows:

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

I am setting a timeliness target for LCS for 2009, which requires at least 87% of complaints to be investigated and concluded within 6 months. I consider this is an important timeliness target area, and one which will help ensure that there is no unnecessary build up of work in progress in anticipation of the handover to the OLC. I am pleased to note that LCS is broadly in agreement with this target level, and it should now arrange to have the necessary systems in place to ensure that its 6 month closure performance does not fall below its current level of 87%. As this target requires the use of current measurement practices it should not create any additional administrative burden. In light of the specific issues raised by LCS in response to my target proposals, I also agree to the suggested change in methodology to be used for measuring this target, which will allow performance against this target to be measured throughout the year. I can confirm that this target will be met if, at 31 December 2009, at least 87% of all closures between 1 April 2009 and 31 December 2009 are closures within 6 months.

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

As I have already said, I am pleased with the improvements made in relation to the time taken to investigate and conclude a complaint; this is good news for the consumer. However, I believe a 12 month closure target is still required to sustain performance at its present level. Recognising the improvements already made by LCS I am continuing to set a timeliness target for LCS for 2009, which requires all complaints to be investigated and concluded within 12 months of receipt, apart from in exceptional circumstances. It is important that LCS review all cases that have been open over 12 month old on a monthly basis as this will provide a better and earlier indication of any problem areas that need to be addressed. Again, as this target requires the use of current measurement practices it should not create any additional administrative burden. When assessing performance against this target, consideration will be given to those cases over 12 months old that remain to be concluded, where the delay was outside LCS control. In view of this I will require LCS to provide, on a monthly basis as it does now, details of each case over 12 months old, including case reference numbers; an assessment of why the case remains open; and the activity it is planning to take to bring the matter to conclusion.

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

As I have said earlier, it is important that LCS ensures any work in progress complaints are minimised. I have considered carefully the points raised by LCS in its letter of the 6 February. However, I do not feel it is appropriate to set this target within a 5% range of the LCS own internal plan level. Given current performance levels I believe this target is realistic, reasonable and achievable, and I am therefore setting a target for LCS to maintain work in progress levels at 3,445 by 31 December 2009.

Recommendations

Having listened to your comments and those of LCS, SRA and other stakeholders, I can confirm that the five recommendations I am making for the period covering 1 April 2009 to 31 December 2009 are as follows:

- **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.
- **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. I have noted the Law Society's response to this recommendation that LCS will rely on file samples from the file review process to assess performance against the LCS' own internal quality performance objective. Unfortunately, I have found that historically, file reviews have failed to address the issue of consistency in the quality of decision making and in my view a representative sample would give greater assurance of a consistent approach across all casework. I therefore believe it is important to make this recommendation.

- **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. I have noted the Law Society's response, but consider that this is an important recommendation and one which would give the Law Society sufficient assurance that the LSO is satisfied with the LCS handling of the case.
- **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.
- **Recommendation R5** – Although I have decided not to set targets for SRA, I would recommend that the Law Society encourages it to aim to investigate and conclude, prepare fully and lodge with the Solicitors Disciplinary Tribunal, all cases within 12 months. This would be an improvement on the current target of 18 months, which SRA should maintain as a maximum. This would be in the interests of those who have made a complaint by seeing action taken sooner; reduce the possibility of the solicitor repeating the problem with other clients; and benefit the solicitor, who at present is waiting too long before their case is determined, and as a consequence, is unable to move forward and learn from the experience.

I hope you find the targets I have set and the recommendations I have made apply a balanced approach to your work and one which fits with the Law Society, LCS and SRA complaint handling agendas for improvement for 2009. I consider the targets I have set are reasonable, realistic and achievable. I believe they will assist LCS towards delivering the complaints handling service the consumer and profession expects and I will continue in my support for the achievements of LCS and SRA against these priorities. If you wish to discuss with me personally any aspects of this letter, please do not hesitate to contact me.