

Financial Memorandum for the Office for Legal Complaints

Contents

I.	Introduction	3
II.	Principles	3
III.	Income and expenditure – general	4
IV.	Income	7
V.	Expenditure on staff	8
VI.	Non-staff expenditure	9
VII.	Management and disposal of fixed assets	13
VIII.	Budgeting procedures	13
IX.	Banking	14
X.	Compliance with instructions and guidance	15
XI.	Review of financial memorandum	16
	Annex A	17
	Annex B	18
	Annex C	19

I. Introduction

1. This financial memorandum, between the Ministry of Justice (MoJ) and the Office of Legal Complaints (OLC), forms part of the *Management Statement*, and sets out in greater detail the financial framework within which the OLC is required to operate. Throughout this document references to the MoJ refer to the Sponsor Team as the first point of contact.
2. OLC shall satisfy the terms and conditions set out in the combined document, together with such other conditions, guidelines and directions as the MoJ may from time to time require after consultation with the OLC, in order that the MoJ Departmental Accounting Officer (DAO) may fulfill his responsibilities.
3. This document will be jointly reviewed by the MoJ and OLC prior to the OLC becoming fully operational and thereafter it will be reviewed at least at regular three year intervals. The OLC will consult the LSB during its review of this document.

II. Principles

4. The Legal Services Act 2007 provides that the establishment and operations of the OLC, the Ombudsman Scheme (and the LSB) should be fully funded by the legal profession, by a combination of levy and case fees and at no net cost to the public purse.
5. The LSB is responsible for the approval of the OLC's expenditure budget as well as the preparation of its own expenditure budgets and will involve the MoJ at an early stage to enable the formal mandatory delegation process to be completed. The OLC and the LSB will further agree with the MoJ an amount of levy and case fees which are appropriate for the recovery of the costs of the OLC.
6. It is understood that timing differences may arise between the cost of establishment and /or operations and the amount of levy or case fees collectible in any one year, however once fully operational, the income and expenditures of these activities should be balanced over the medium term and in practice the operating expenses of the OLC (and the LSB) should be equal to the sum of the levy and case fees raised over a rolling three year period.
7. The mechanism by which this funding and any timing differences is operated provides that expenditures of the OLC and the LSB are directly funded by grant-in-aid provided through the MoJ and ring-fenced against amounts collected by the OLC and LSB in the forms of levies and case fees paid directly into the Consolidated Fund.
8. Any surplus or deficit in operating (or set-up) expenditures as compared to receipts will be dealt with by amendments to future receipts or expenditures, necessary to meet the statutory objectives of the OLC and LSB. Any surplus which may arise in any given period will be recognised by the Consolidated Fund /MoJ as being funds of the legal profession until such time as the appropriate adjustments to income or expenditures have been made through the business planning process.

9. Although not directly funded by government, the OLC recognises that the mechanism described above calls for the funds to be treated as Public Expenditure and it will therefore ensure that it fully complies with the principles of *Managing Public Money*. It recognises the MoJ's responsibilities, as the sponsoring department to ensure that such compliance is carried out.
10. The OLC will be responsible for the establishment of the processes, procedures, reports and management controls that are considered necessary to ensure that it meets its statutory obligations and to comply with the principles laid down in *Managing Public Money*.
11. As described in relation to performance information in the management statement, there will be, as far as is possible, a single information framework on financial management designed to meet the needs of the OLC Board, the MoJ and the LSB.
12. The MoJ will be responsible for assuring itself that the appropriate processes, procedures and management controls have been put in place and will rely on such controls to ensure that its own obligations as to the stewardship of the funds which pass through it are met.
13. This Financial Memorandum recognises the role that the MoJ has in ensuring that the OLC acts with propriety in the use of these public monies and should help ensure that such propriety is assured without restricting or fettering the OLC in carrying out its statutory responsibilities.

III. Income and expenditure – general

14. **The Departmental Expenditure Limit (DEL)**

The OLC's current and capital expenditure form part of the Ministry of Justice (MoJ) Resource DEL and Capital DEL respectively. General Guidance on the interpretation of Resource Accounting and budgeting rules is contained within *Managing Public Money*.

- All resource is provided by the MoJ directly to the OLC in the form of Grant in Aid.
- All levy income from approved regulators will be collected, on behalf of the OLC, by the Legal Services Board (LSB), and surrendered to the Consolidated Fund by the LSB. All case fee income will be collected, by the OLC and surrendered to the Consolidated Fund.
- Under the Legal Services Act 2007, the LSB approve the OLC budget, and will then recommend said budget to the MoJ. Once the budget is agreed, the MoJ will formally delegate a resource budget to the OLC.

15. **Expenditure not proposed in the budget**

The OLC shall not, unless provided for elsewhere in this financial memorandum or without prior written approval, of both the LSB and the MoJ, enter into any undertaking to incur any expenditure which falls outside the OLC delegations or which is not provided for in the OLC annual budget as approved by the LSB and the MoJ, subject to the LSB and OLC agreeing to vary that budget under Schedule 15 paragraph 23 (2) of the Legal Services Act 2007.

16. **Procurement**

The OLC shall:

- ensure its procurement policies are consistent with the Office of Government Procurement (OGC), Government (*Annex 4.4 of Managing Public Money*) and MoJ procurement guidelines and policies;
- comply with all legal obligations including those under the European Communities' Procurement rules and other international agreements;
- ensure that its staff are fully aware of relevant Procurement, policies, guidance, and, in particular, relevant delegations;
- put in place a procurement framework which sets out its procurement structure, organisation, processes and control mechanisms. The MoJ will provide OLC with a statement of delegated authority for general procurement; and
- periodically and wherever practicable undertake benchmarking against best practice elsewhere;

The NAO and the Internal Auditors will carry out procurement audit and inspection. The Internal Auditors will have recourse to MoJ procurement as required to properly fulfil their functions on behalf of OLC.

17. **Competition**

Goods and services, including works, should be acquired by competition unless there are compelling reasons to the contrary.

Proposals to let single-tender or restricted contracts shall be subject to the overarching procurement delegation as specified by the MoJ and the OLC shall keep a record of those which are let.

18. **Value for money**

Procurement by the OLC of goods and services, including works, is to be based on value for money, having due regard to propriety and regularity. Value for money is the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement.

Where appropriate, a full investment option appraisal shall be carried out and procurement strategy produced before procurement decisions are taken.

As a general principle, all Investment schemes must be supported by an approved business case.

Capital projects outside of the delegated authority limits will be subject to MoJ investment programme governance.

Progress on capital expenditure must be monitored by OLC and reported to MoJ within its resource reporting mechanism.

19. **Separation of duties**

The OLC shall ensure that the roles and responsibilities of staff with respect to procurement are clearly defined and that there is adequate separation of duties. There should be separation of financial authority and purchasing authority.

20. **Timeliness in paying bills**

The OLC shall collect receipts and pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in *Annex 4.6 of Managing Public Money* and, as far as possible, with the target set by BIS for payments to small and medium sized entities (currently 10 days).

The OLC shall comply with the British Standard for Achieving Good Payment Performance in Commercial Transactions (BS 7890), and with the Late Payment of Commercial Debts (Interest) Act 1998 as amended. The 1998 Act allows creditors to claim statutory interest and compensation on late payment of commercial debts.

21. **Novel, contentious or repercussive proposals**

The OLC shall obtain the approval of the MoJ and, where appropriate OLC will have the right of appeal to HM Treasury via the MoJ, before:

- incurring any expenditure, for any purpose which is or might be considered novel or contentious;
- making any significant change in the scale of operation or funding of any initiative or particular scheme which is subject to specific approval or funding by the MoJ;
- making any change of policy or practice which has wider financial implications (eg. because it might prove repercussive among other public sector bodies);
- making any change of policy or practice which may result in significant future funding requirements beyond that which is provided for within the indicative DEL allocations.

22. **Risk management**

The OLC shall:

- ensure that the risks, which it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the HM Treasury guidance *Management of Risk: A Strategic Overview and the MoJ Guide: Risk Management*;
- adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Treasury's guide *Managing the Risk of Fraud* and the MoJ's fraud guidance and practice;
- take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract;
- provide the MoJ copies of its risk register on a quarterly basis (the MoJ will inform the OLC of any risks which feature in the MoJ's risk log).

23. **Wider markets**

Wider markets policy seeks to maximise receipts from new business activity from non-Exchequer sources; for the purposes of this Financial Memorandum, wider markets excludes income from the OLC's core activity such as training, seminars, publications and incidentals services in line with *Fees and Charges Guide*.

The OLC must assure itself that any wider markets activity not directly related with the OLC core activity is intra-vires and should seek MoJ approval.

IV. Income

24. **Grant-in-aid**

Grant-in-aid will normally be paid to the OLC in monthly instalments, on the basis of a written application from the OLC, showing evidence of need and supported by a cash flow forecast. The application shall certify that the conditions applying to the use of grant-in-aid have been observed to date and that further grant-in-aid is now required for purposes appropriate to the OLC functions and be authorised by the Finance Director OLC.

The OLC should have regard to the general principle enshrined in *Annex 5.1 of Managing Public Money* that it should seek grant-in-aid according to need.

Cash balances accumulated during the course of the year from grant in-aid or other Exchequer funds shall be kept at the minimum level consistent with the efficient operation of the OLC.

Grant-in-aid not drawn down by the end of the year shall lapse. However, where draw-down of grant-in-aid is delayed to avoid excess cash balances at year-end, the MoJ will make available in the next financial year – subject to approval by Parliament of the relevant Estimates provision – any such grant-in-aid which is required to meet any liabilities at year end, such as creditors.

25. **End-year flexibility**

As set out in *PES (2000) 25*, the MoJ will aim to set firm multi-year plans and cascade end-year flexibility (EYF) on budgets where possible. EYF for individual Arms Length Bodies is not automatic; however, the MoJ will aim to apply the following principles:

- ahead of the year in question, a rolling three-year budget, fixed for at least the first year and with indicative amounts for subsequent years, will be delegated by the MoJ to the OLC, following agreement with the LSB (Legal Services Act Schedule 15 paragraph 23) and their recommendation to, and approval by, the MoJ;
- make adjustments to the MoJ parliamentary Estimates and the OLC budget delegation, as necessary, during the year to take account of fluctuations, given that receipts surrendered to the Consolidated Fund and resource requirements will be subject to timing differences.

26. **Receipts from sale of goods or services**

Such receipts are classified as negative public expenditure providing additional DEL. The OLC, or the LSB on its behalf, will surrender all receipts described under section 175 of the Legal Services Act 2007 to the Consolidated Fund, and they are classified as a tax within public sector classification. If there is any doubt about the correct classification of a receipt the OLC shall consult the MoJ, who will provide guidance.

27. **Fees and charges**

Fees (or charges) for any services supplied by the OLC shall be determined in accordance with the Fees and Charges Guide, and with the Freedom of Information Act 2000.

28. **Interest earned**

Under the HM Treasury Consolidated Budgeting Guidance, the cost of capital charge on most DEL financed assets score as resource DEL. Any interest earned on cash balances arising from grant-in-aid or other Exchequer funds shall be treated as a receipt, arising from a non-business activity. Such interest will be used to benefit the legal profession by reducing the funding requirements (described at paragraph 6 above).

29. **Gifts and bequests received**

The OLC is free, subject to MoJ approval, to retain any gifts, bequests or similar donations which shall be treated as receipts.

Donated assets do not attract a cost of capital charge, and a release from the donated assets reserve should offset depreciation in the operating cost statement. Before proceeding in this way the OLC shall consider if there are any associated costs in doing so or any conflicts of interests arising.

The OLC shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

Any gifts including hospitality to OLC Board members or staff must be recorded and are subject to the requirements of *Annex 4.10 of Managing Public Money*.

30. **Receipts from the EU**

Receipts from the European Union (if retained) do not provide additional DEL spending power for the OLC. Such receipts benefit the 'EU net payments' line in the MoJ's accounts.

31. **Reserves**

OLC may hold reserves for such purposes as may be required by its Board, for example, a pensions reserve. Funds in any reserve may be a factor for consideration when grant-in-aid is determined.

V. Expenditure on staff

32. **Staff costs**

The OLC will operate under a single running cost regime.

33. **Chair, members and senior staff**

The OLC Chair is appointed with Ministerial approval and the Chair and the Board are remunerated by the LSB. The salary of any member of staff who it is proposed to pay a package greater than that paid to the Chief Executive (the definition of the Chief Executive includes the Chief Ombudsman or Accounting Officer where these appointments are not the Chief Executive) will require explicit justification.

34. **Pay and conditions of service – other staff**

The Board of OLC will determine the pay and grading structure and terms and conditions of service for other staff employed by the OLC.

The Pay Strategy will be determined by OLC and benchmarked against appropriate, similar organisations including relevant public sector organisations.

The initial terms and conditions will be the subject of a Pay Remit (in line with HM Treasury guidance) and, once approved by MoJ, future annual pay uplifts and other changes to terms and conditions will be determined by OLC, subject to the resulting financial commitments being met from OLC available resources.

The OLC may introduce a performance-related pay scheme in line with HM Treasury Guidance, within their Pay Strategy or within their future annual pay remits and this shall form part of the annual aggregate pay budget approved by the MoJ.

The OLC shall comply with the EU directive on contract workers [“Fixed Term Employees Regulations (Prevention of Less Favourable Treatment”)].

35. **Pensions; redundancy/compensation**

The OLC’s staff, shall be eligible for membership of any pension arrangements OLC may make as part of their pay strategy. Proposals to pay compensation for loss of office are treated as novel and contentious. Proposals on severance payments, which are defined as any payment beyond the OLC’s contractual obligation, must comply with Annex 4.13 in Managing Public Money and require prior MoJ and Treasury approval.

VI. Non-staff expenditure

36. **Capital expenditure**

Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis. Expenditure to be capitalised shall include:

- acquisition, reclamation or buying out of land;
- acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and
- acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.

In acquiring an interest or disposing of an interest in land during the initial five year period the OLC require the approval of the Lord Chancellor (Legal Services Act 2007 section 24).

Proposals for individual capital projects or acquisitions will normally be approved by the OLC Board and managed within OLC’s business planning process. The OLC will manage projects within its delegated limits. For projects outside of the OLC delegated authority limits formal investment appraisal in accordance with HM Treasury guidance will be undertaken and considered by the OLC Board prior to consideration by the MoJ (Access to Justice) Investment Committee.

37. **Property**

By virtue of the Legal Services Act 2007, the OLC is initially classified as a non-Crown Public Body and has its own landholding powers. Any property held by the OLC will therefore normally be owned or leased by it. In acquiring property due recognition should be taken of the *MoJ Estates Strategy 2009*.

38. **Transfer of funds within budgets**

Unless financial provision is subject to specific controls (e.g., where provision is ring-fenced for specific purposes), the following applies:

- transfers between budgets within the total capital budget, or between budgets within the total revenue budget, do not need MoJ approval;
- transfers from resource to capital may be allowed subject to approval by the Board and MoJ;
- transfers from capital to resource budgets are not allowed.

Note: any such movements should be notified to both update the MoJ's records (ARAMIS) and the HM Treasury database.

39. **Lending, guarantees, leases and charges, guarantees, indemnities; contingent liabilities; letters of comfort**

Except as provided within approved terms and conditions of service for staff (e.g. season ticket loans) or in accordance with currently agreed operational policy (staff advances, credit cards etc), OLC shall not, without the MoJ prior written consent, have a bank overdraft, lend or borrow money, enter into any property or finance lease transactions, charge any asset or security, give any guarantees and indemnities or letters of comfort (as defined in *Chapter 5 and Annex 5.5 of Managing Public Money*), whether or not in a legally binding form.

The OLC will, notify MoJ of any contingent liabilities when they become apparent.

Before entering into any operating lease OLC shall demonstrate that the lease offers better value for money than purchase.

Any financial guarantees and indemnities given by the OLC must be adequately covered against undrawn resources.

The OLC shall keep a record of all losses and special payments, whether within delegated powers or not, and all losses sustained or special payments made shall be suitably recorded in the statement of accounts for each financial year.

40. **Grant or loan schemes**

Unless covered by a delegated authority, all proposals to make a grant or loan to a third party, whether one-off or under a scheme, shall be subject to prior approval by the MoJ. Approval of the terms and conditions will be required and such terms shall include a requirement on the receiving organisation to prepare accounts and to ensure that its books and records of both parties in relation to the grant or loan are readily available for inspection by the OLC, MoJ and the Comptroller and Auditor General.

41. **Gifts made, write-offs, losses and other special payment**

Proposals for making gifts or other special payments (including write-offs) outside the delegated limits set out in Appendix A to this document must have the prior approval of the MoJ.

Gifts made by management to staff are subject to the requirements of Cabinet Office and MoJ guidance on non-pay rewards.

Subject to agreements with the MoJ as to procedures to be followed, and the formal financial authorities delegation issued by the MoJ shown at Annex A to this Financial Memorandum, the OLC may deal with and, where necessary, 'write-off' any losses in the following categories:

- Cash losses:
 - a. Losses by theft, fraud, arson or gross carelessness (where every effort must be made to secure full recovery, prosecution must be pursued in all appropriate cases and disciplinary action considered where applicable);
 - b. Physical losses of cash, e.g. by fire;
 - c. Loss of cash equivalents, e.g. stamps;
 - d. Unvouched and incompletely vouched payments;
 - e. Irrecoverable losses due to overpayments;
- Store Losses:
 - a. All losses normally dealt with under this head (including losses by fraud etc)
 - b. Constructive losses and fruitless payments

Similarly, subject to delegations and Annex A, the OLC may deal with and make special payments having regard to the guidance in *Annex 4.10 of Managing Public Money*.

All cases of fraud and theft by OLC Board members, staff, recipients of Board grants or others whether proven or suspected (even when the sum involved is within the delegation limits) must be referred to Internal Audit within the MoJ via the MoJ; an annual return of fraud is also required.

42. **Public/Private Partnerships**

The OLC shall seek opportunities to enter into Public/Private Partnerships where this would be more affordable and offer better value for money than conventional procurement. Where cash flow projections may result in delegated spending authority being breached the OLC shall consult the MoJ. Any partnership controlled by the OLC shall be accounted for under International Financial Reporting Standards. Where the judgement over the level of control is a close one the MoJ will consult HM Treasury.

43. **Voluntary and community sector**

The Government is committed to partnership working with the voluntary and community sector (VCS). The OLC should consider what opportunities exist for engaging with the sector, to help the OLC deliver its objectives and targets. The Code of Practice on Funding and Procurement is important in setting out principles for funding relationships with the sector. Where giving grants or procuring services from the voluntary and community sector, clauses on upholding the Compact between the government and public sector and use of the Compact Mediation Scheme should be included in terms and conditions.

44. **Recovery of grant-financed assets**

Where the OLC has financed expenditure on capital assets by a third party, the OLC shall make appropriate arrangements to ensure that any such assets are not disposed of by the third party without prior consent. The OLC shall therefore ensure that such repayment conditions are sufficient to secure the repayment of the whole or part of the proceeds of the sale, in order that funds may be surrendered to the MoJ. If the asset ceases to be used by the recipient then a proportion of the value of the asset shall be repaid to the OLC.

45. **Subsidiary companies and joint ventures**

The OLC shall not establish subsidiary companies or joint ventures without the express approval of the MoJ. Any subsidiary company or joint venture controlled or owned by the OLC shall be consolidated with it in accordance with generally accepted accounting principles and HM Treasury Guidance for public expenditure accounts purposes. Where the judgement over the level of control is a close one the MoJ will consult HM Treasury. The Management Statement and Financial Memorandum shall apply to the subsidiary company or joint venture unless agreed otherwise.

46. **Financial investments**

The OLC shall not make any investments in traded financial instruments without the prior written approval of the MoJ, nor shall it aim to build up cash balances or net assets in excess of what is required for operational purposes. Equity shares in ventures, which further the objectives of the OLC, shall equally be subject to Joint MoJ approval unless covered by a specific delegation.

47. **Unconventional financing**

Unless otherwise agreed with the MoJ, the OLC shall not enter into any unconventional financing arrangement.

48. **Commercial insurance**

The OLC shall not take out any insurance without the prior approval of the MoJ, other than third party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation or which is permitted in *Managing Public Money*.

The MoJ shall have a written agreement with the OLC about the circumstances in which, in the case of a major loss or third-party claim, an appropriate addition to budget out of the MoJ funds and/or adjustment to the OLC targets shall be considered but not be automatic; this will take account of business continuity, disaster recovery and appropriate remedial action.

In the case of any claim arising against the OLC from injury to, or death of any person whether that person is in the employment of the OLC or otherwise, or in the case of any claim for damage to or loss of property up to the value in the financial authorities delegation at Annex A, the OLC shall not accept liability to make any payment without the authority of the MoJ.

The OLC has a statutory exemption from Employers Liability Insurance, as set out in the provisions of the Criminal Justice and Public Order Act 1994.

The OLC may itself settle claims made against it for damage or loss of property up to the value within the financial delegations at Annex A in each case. In every case the claimant should sign an undertaking renouncing any further claim against the OLC arising from the incident which gave rise to the claim.

VII. Management and disposal of fixed assets

49. Register of assets

The OLC shall maintain an accurate and up-to-date register of its fixed assets.

50. Disposal of assets

The OLC shall dispose of assets, which are surplus to its requirements. Assets shall be sold for best price, taking into account any costs of sale.

High value assets shall be sold by auction or competitive tender unless otherwise agreed by the MoJ, and in accordance with *Chapter 4/Annex 4.8 of Managing Public Money*.

Receipts from the disposal of assets which are within the delegated limit at Annex A are normally retained by the OLC.

Receipts that exceed the delegation at Annex A maybe be retained by the OLC, in recognition of its source of funding, but it must seek MoJ approval before incurring any resultant expenditure.

VIII. Budgeting procedures

51. Setting the annual budget

The OLC must at the start of each financial year adopt a budget delegated by the MoJ, following approval by the LSB under Schedule 15 paragraph 23 of the Legal Services Act 2007, and recommendation to, and approval by, the MoJ.

The OLC approved annual business plan will take account both of its approved budget and of any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any funding and/or other income over the year. These elements will form part of the approved business plan for the year in question.

Any grant-in-aid provided by the MoJ for the year in question will be voted in the MoJ's Parliamentary Estimate and will be subject to Parliamentary control.

52. General conditions for authority to spend

Once the OLC budget has been approved, the OLC shall have authority to incur expenditure approved in the budget without further reference to the MoJ, on the following conditions:

- the OLC shall comply with the delegations set out in Appendix A of this document. These delegations shall not be altered without the prior agreement of the MoJ;
- the OLC shall comply with the conditions set out in paragraph 15 above regarding novel, contentious or repercussive proposals;
- the OLC shall provide the MoJ with such information about its operations, performance individual projects or other expenditure as the MoJ may reasonably require in order that the MoJ Departmental Accounting Officer may fulfill his responsibilities.

53. **Providing monitoring information to the MoJ**

As part of the common information framework for the OLC Board, LSB and MoJ described in paragraph 18 of the Management Statement, the OLC shall provide financial information on cash, Grant-In-Aid and operational and financial performance on a regular basis to enable the satisfactory monitoring by the MoJ of:

- the OLC cash management;
- its draw-down of any grant-in-aid;
- the actual and budget for the month and year to date by resource and capital headings;
- the forecast outturn by resource headings;
- the explanation of budget variances;
- other data required for the Government Expenditure Monitoring Systems;
- information for consolidation of the OLC resource and capital outturn and budgets into the MoJ's financial system;
- a statement reconciling Resource Accounts to DEL budgets (at year end it should initially be based on draft accounts).

IX. Banking

54. **Banking arrangements**

The OLC Accounting Officer is responsible for ensuring that the OLC banking arrangements are in accordance with the requirements of *Annex 5.7 in Managing Public Money*. In particular, the Accounting Officer shall ensure that the arrangements safeguard public funds and are carried out efficiently, economically and effectively, ensuring that:

- these arrangements are suitably structured and represent value-for-money, and are reviewed at least every three to five years;
- sufficient information about banking arrangements is supplied to the MoJ's Accounting Officer to enable the latter to satisfy his/her own responsibilities;
- the OLC banking arrangements shall be kept separate and distinct from those of any other person, or organisation;
- adequate records are maintained of payments and receipts and adequate facilities are available for the secure storage of cash.

X. Compliance with instructions and guidance

55. **Relevant documents**

The OLC shall comply with the following general guidance documents and these are listed at Annex C.

56. **Accounting and audit arrangements**

The OLC will:

- keep proper accounts and proper records in relation to the accounts;
- prepare in respect of each financial year a statement of accounts as set out in the Legal Services Act 2007 section 26 (2).

The Comptroller and Auditor General will examine, certify and report on the statement of accounts of the OLC as required by Legal Services Act 2007. The Comptroller and Auditor General shall have free access, at all reasonable times, to the books of account and other documents relating to the OLC's accounts and may require the OLC to furnish from time to time or at regular periods accounts of transactions of the OLC up to such times or periods. The Comptroller and Auditor General shall also be enabled to carry out an examination into the economy, efficiency and effectiveness with which the OLC has used its resources in discharging its functions.

The OLC shall maintain appropriate arrangements for economic, efficient and effective financial, manpower and resources control. These arrangements should ensure the regularity and propriety of all payments out of the grant in aid, the proper application of all income and receipts and the safeguarding of all property in the OLC's charge.

The OLC will also make adequate arrangements for internal audit which should comply with the objectives, standards and practices set out in the HM Treasury's *Government Internal Audit Manual*.

XI. Review of financial memorandum

57. This financial memorandum will be jointly reviewed by the MOJ and the OLC prior to the OLC becoming fully operational, and thereafter will normally be reviewed at least every three years or following a review of the OLC functions as provided for in the management statement or because the OLC is to be wound up for whatever reason (see Annex B for arrangements in that event), notwithstanding that amendments and additions to this financial memorandum by the MoJ, in consultation with the OLC, may be required to take account of changed circumstances or new guidance.
58. HM Treasury will be consulted on any significant variation proposed to this financial memorandum and the associated management statement.

Signed:

Chair of the Office for Legal Complaints

Chief Ombudsman

Director General Access to Justice on behalf of the Lord Chancellor

1 July 2009

Annex A

Office for Legal Complaints

Financial Delegation 2009/10

		£
1	Capital Projects L&B	50,000
2	Capital Projects IT	50,000
3	Capital Projects Other	50,000
4	Disposals	10,000
5	Gifts	Limits contained in Managing Public Money
6	Contingent Liability	Limits contained in Managing Public Money
7	Compensation & Special Payments	10,000
8	Severance	0
9	Write Off & Bad Debt	10,000
10	Fraud & Abandoned Claim	10,000

Procurement Delegation 2009/10

1	Competitive tender	£100,000
2	Single tender	£50,000

Annex B

Arrangements in the event that the OLC is wound up

1. The MoJ will put in place arrangements to ensure the orderly winding up of the OLC. In particular it should ensure that the assets and liabilities of the OLC are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to the MoJ) To this end, the MoJ will:
 - ensure that procedures are in place in the OLC to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
 - specify the basis for the valuation and accounting treatment of the OLC's assets and liabilities;
 - ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that funds are in place to pay for such audits. It will be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts; and
 - arrange for the most appropriate person to sign the closing accounts. In the event that another OLC AO take on the role, responsibilities, assets and liabilities, the succeeding OLC AO should sign the closing accounts. In the event that the MoJ inherits the role, responsibilities, assets and liabilities, the sponsor department's AO should sign.
2. The OLC will provide the MoJ with full details of all agreements where the OLC or its successors have a right to share in the financial gains of developers. It should also pass to the MoJ details of any other forms of claw-back due to the OLC.

Annex C

Relevant documents

The OLC shall comply with the following general guidance documents:

- a. this document (both the management statement and the financial memorandum);
- b. Managing Public Money including in particular Chapter 7 “Working with the third sector”;
- c. Non-Departmental Public Bodies - a Guide for Departments, issued by the Cabinet Office;
- d. Compact on Relations between Government and the Voluntary and Community Sector in England and the relevant compact between the Government and the voluntary sector in Wales. The Compact Code of Good Practice on Funding and Procurement and Guidance to Funders, issued by the Treasury on improving funding for voluntary and community organisations;
- e. Government Internal Audit Standards, issued by the Treasury;
- f. Managing the Risk of Fraud, issued by the Treasury;
- g. Framework document for executive NDPBs within Managing Public Money (Annex 7.4) issued by the Treasury;
- h. the Fees and Charges Guide within chapter 6 of Managing Public Money, issued by the Treasury;
- i. Departmental Banking: A Manual for Government Departments, within annex 5.7 of Managing Public Money, issued by the Treasury;
- j. relevant Dear Accounting Officer letters;
- k. Regularity and Propriety, within chapter 2 and 3 of Managing Public Money, issued by the Treasury;
- l. the Consolidation Officer Memorandum, issued by the Treasury;
- m. relevant Dear Consolidation Officer letters;
- n. other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;
- o. MoJ guide to the EU;
- p. other relevant instructions and guidance issued by the MoJ;
- q. specific instructions and guidance issued by the MoJ;
- r. recommendations made by the Public Accounts Committee, or by other Parliamentary authority, which have been accepted by the Government and which are relevant to the OLC; and
- s. Legal Services Act 2007.

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