

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## Office of Legal Complaints - Business Plan

### Response of the Bar Standards Board

#### Introduction

1. The Bar Standards Board (BSB) welcomes the opportunity to comment upon the Office of Legal Complaints (OLC) draft business plan. As the OLC acknowledges, when planning for start up, an organisation must recognise the constraints on setting too specific a business programme when knowledge of how the operational processes and procedures will function is limited and there is uncertainty about the volume, scope and nature of its work. The BSB is encouraged therefore to see that the OLC has not sought to be too prescriptive in its draft business plan and has built in sufficient flexibility to allow for the OLC to adapt as the need arises.
2. In the light of the above, and the BSB's broad agreement with the OLC's approach to its arrangements, the BSB's response is brief and focuses on those areas where the BSB does not believe that the business plan provides sufficient clarity or detail.
3. In particular, the BSB's response will address:
  - i. the arrangements for referring conduct matters to the Approved Regulators;
  - ii. the need for clear reference to the need for Approved Regulators to train OLC staff to be able to deal with the full range of complaints that they will receive.

#### Our response

4. Dealing in turn with the two points raised in paragraph 3 above:

## **Referral of conduct matters**

5. An important element of the effective discharging of the OLC's functions will be the need for clearly defined arrangements for referring conduct matters received by the OLC to the relevant Approved Regulator. Whilst the detail of these arrangements will be covered in any memorandum of understanding developed between the OLC and each Approved Regulator, the BSB believes that the referral mechanics should be provided for in the Business Plan and specifically under the OLC business processes as set out at pages 5-7 of the consultation paper.
6. The BSB would suggest that simply adding an additional box to each stage of the process diagram at page 6 providing for the referral by the OLC of a conduct matter complemented by brief supporting and explanatory text on page 7 would suffice
7. Whilst such a revision may appear on the face of it trivial, it will ensure that the OLC Business Plan reflects the inherent difference in the nature of the expertise and investigation required to deal with conduct as opposed to service complaints. Furthermore, it will make it clear that it is the responsibility of the Approved Regulators to deal with complaints of this kind and will introduce the referral of conduct matters to the Business Plan.

## **The role of the Approved Regulators in training OLC staff**

8. It is clear that the OLC will need the support of the Approved Regulators to ensure that its staff are properly trained to deal effectively with complaints received. Whilst the broad themes of complaints about legal professionals will be consistent, complaints handlers will need to be alive to the different nature of the respective arms of the profession, their Codes of Conduct and the nuances of their professional practice. For example, OLC staff will need to be aware of the restrictions on barristers' ability to conduct litigation or the limits on the presentation of their client's case before the court. Failure at the outset to have in place the necessary training will be a significant risk to the OLC's ability to discharge its duties..
9. This training need should, in the BSB's view, be explicitly reflected in the Business Plan both as a business requirement and as a potential risk. The BSB would suggest that the knowledge management and quality section on page 13 would be the

appropriate place for such reference with the risk perhaps identified in the table on page 12.

## **Conclusion**

10. The OLC's Business Plan is ambitious but, equally, recognises that it is predicated inevitably on a certain amount of conjecture and estimation. The BSB is broadly content with the Plan as drafted save for the two discrete points raised above. In addition, the BSB would encourage the OLC to ensure that the final Business Plan allows for sufficient flexibility to adapt and move as the precise nature and scope of the OLC's work becomes more apparent over their first 12 months of operation.
  
11. The BSB is committed to working with the OLC to ensure effective delivery of a complaints service. We would be happy to expand on our response if required.

**Bar Standards Board**  
**December 2009**