

Meeting	OLC Board	Agenda Item No.	11
		Paper No.	107.7
Date of meeting	28 September 2020	Time required	

Title	Recommendation – OLC Application for Variation to Budget 2020-21.
Sponsor	Siobhan Fennell: Head of Governance & Strategy
Status	OFFICIAL

Executive summary
<p>OLC'S budget for 2020-21 is set at a total of £12,808,300. The Executive recommends that the OLC seeks an interim variation to that budget to provide additional funding of £344,315 an increase of 2.7%.</p> <p>Exceptional circumstances have led to significant budget pressures and risk an overspend by the end of the financial year if left unresolved. This paper explains those budget pressures; how the proposed additional budget would be allocated to address them, and how that additional spend supports performance recovery following the impacts of covid-19 as well as longer term improvement. An explanation is also provided of the risks to post-covid performance recovery and further improvement should budget pressures need to be resolved within the current budget limit.</p> <p>Schedule 15, para 23(1) of the Legal Services Act provides that the OLC may, with the approval of the Legal Services Board, vary the budget for a financial year any time after its adoption.</p> <p>The Tripartite Operating Protocol between OLC, LSB & MOJ provides that:</p> <p><i>Changes in budgets are subject to the Supplementary Estimates process, and need to be presented to Parliament, which usually takes place in January or February of each year. This means that likely budget variations usually need to be picked up by the end of November.</i></p> <p><i>If the OLC requires a change in the agreed revenue or capital budgets, the following process will apply:</i></p> <ul style="list-style-type: none"> • <i>the OLC will discuss and agree the need for the change, and the value of the change;</i> • <i>the OLC will share a short business case explaining the required change with the rationale for it, and share this with both the LSB and MoJ, requesting initial feedback which the bodies will provide within ten working days;</i> • <i>the OLC will prepare a short note requesting formal approval of the change by the LSB; and</i> • <i>if the request is approved, the OLC will liaise with the MoJ to ensure its inclusion in the Supplementary Estimates.</i>
Recommendation/action required
Board is asked to AGREE that the application to vary the 2020-21 budget should be taken forward with the Legal Services Board and Ministry of Justice as proposed.

18 September 2020

Proposed Application to Vary OLC Budget 2020-21.

Background

1. In 2019 the Executive proposed a growth budget for 2020-21 targeted at achieving a significant reduction in customer wait times. Following consultation on the budget and scrutiny of the proposals, OLC chose not to adopt the proposed growth budget. Instead a standstill budget plus inflation was agreed.
2. The Executive confirmed that proposed improvements to the customer experience and the organisation's feedback and insight work, which had been linked to increased staffing resource in the original budget proposal, would not be achievable with a standstill budget.
3. A 'lessons learned' review in relation to the budget process for the 2020-21 budget, with contributions from all parties involved, has been completed. The findings and recommendations of that review have been shared with MOJ, LSB and LeO and therefore are not repeated here.

General Principles

4. Exceptional circumstances have led to significant pressures on the 2020-21 budget and there is a risk of overspend by the end of the financial year if these pressures are not addressed. In recommending that the OLC seek a budget increase of 2.7%%, the Executive's priority is to resolve those pressures in a way that safeguards performance recovery and longer term improvement by ensuring effective leadership, with expenditure to support the resilience and capacity of the senior leadership team. The Executive recommend avoiding the need to resolve budget pressures in ways that inevitably pose a risk to staff engagement at a time when improvement activity is focused on building effective management practices within the operation, which is critical to effective performance recovery and improvement.
5. The proposed increase in budget is made with consideration of the wider economic pressures for lawyers who fund the OLC via the levy, and that other organisations within the regulatory sector are looking to limit their demand on levy funding. Consideration has also been given to a reduction in case fee income this financial year, which is a result of the significant decrease in the number of cases concluded against forecast¹. This will mean a greater proportion of LeO's budget will need to be funded via the levy rather than case fees. These considerations are balanced against the need to ensure performance recovery for the benefit of those who use the service, and to support confidence in the service as an effective avenue for redress, particularly in relation to reducing front end wait times.

¹ Between 1 April 2020 and 31 August 2020 LeO invoiced case fees for a total value of £276,000 against a budget of £466,000. Current performance forecasts indicate that total case fees chargeable for 2020/21 are likely to be in the region of £839,000 as compared to budget of £1,118,000 – a deficit of £279,000.

6. The proposal covers variation up to 31 March 2021 only. Budget for any of the items beyond 31 March 2021 will be provided for in LeO's annual 2021-22 budget proposal. It is important to note that a number of the items proposed, particularly the creation of new posts, will commit OLC to expenditure beyond 31 March 2021. Those items will require additional budget in 2021-22 or savings to be made from within a standstill budget.
7. Enquiries have been made as to whether the OLC can access any of the circa £18 million reserves it is required to carry to ensure that the organisation could be appropriately wound up if statutory changes made that necessary. To do so would be particularly beneficial as it provides a means of funding the expenditure necessary to support performance recovery and longer term improvement, without requiring a significant increase in levy funding. Other ombudsman schemes have accessed reserves in response to budget pressures arising from the covid-19 pandemic, though of course the relevant legal framework differs between ombudsman schemes. Enquiries remain ongoing with MOJ.

Rational for increase to OLC budget 2020-21

8. The Executive propose that OLC seek a 2.7% increase to the current budget in the sum of £344,315. The following factors, which were not foreseen at the time the standstill budget was agreed, have resulted in significant pressure on the existing OLC budget.

Budget Pressures:

Costs relating to the Covid19 pandemic

9. We have seen significant accrual of annual leave at this point in the year and are therefore forecasting increased accrual at year end. This is linked to Covid 19 related holiday cancellations, and staff being unable to holiday away from home due to covid-19 related restrictions. A number of options are being considered by the Executive to further ensure that staff use their annual leave entitlement to support their health and wellbeing, whilst ensuring that is balanced with the need to maximise staff availability to achieve performance recovery. Typically LeO staff are entitled to carry over no more than 5 days leave, but we expect to provide for additional carry over this year for some staff, up to an absolute maximum of 10 days, to ensure a balance between staff wellbeing and supporting performance recovery. This is likely to create a significant increase in accrued leave which has to be accounted for at the end of the financial year.

Performance Recovery / Improvement – costs relating to senior leadership and capacity

10. Since April 2020 the Chief Ombudsman; Director of Corporate Services and Head of Human Resources have left the organisation. This has given rise to a need to restructure the senior leadership team to ensure effective cover for senior vacancies in the short term, and to provide a more resilient senior leadership structure in the longer term. Significant additional expenditure is required to ensure LeO's senior leadership team has the capacity and resilience to deliver post-covid performance recovery and longer-term improvement.

Formulation of budget 2020-21

11. LeO's newly appointed Executive is focused on securing both operational and financial grip. In carrying out a forensic analysis of the budgeting process in 2020-21, and in keeping with the recommendations of the Budget Learning review, the new Head of Finance has identified

calculation errors in the budget formulation, the net effect of which is to leave expenditure of £283,150 not provided for (see Appendix A). The Head of Finance is in the process of addressing the underlying issues to ensure there can be no such repeat in the future.

Fig. 1: Summary of Budget Pressures

ITEM	AMOUNT
Senior Leadership Recruitment & Restructure / Senior Leadership Resilience	£271,165
Covid-19 related costs	£100,000
Calculation errors	£283,150
SUB TOTAL	£654,315
Mitigating Factors:	
Agreed levy higher than budget	(£95,000)
Staffing underspends – vacancies/ delayed promotions	(£50,000)
Senior Leadership Restructure Savings	(£55,000)
IT savings	(£60,000)
Identified savings including non-payroll inflation	(£50,000)
MITIGATIONS SUB TOTAL	£310,000
BUDGETARY ISSUE	£344,315

Maintaining Performance Recovery / Improvement & Resolving Budget Pressures

12. In recommending a budget variation the Executive’s objective is to use additional expenditure to support post-covid performance recovery and improvement. That will be achieved in two ways.

13. Firstly, a budget increase would provide additional resilience and capacity for the senior leadership team. The team are working well together in the interim period, prior to appointment of a Chief Ombudsman and Chief Operating Officer, and are aligned in a common goal of setting LeO on the path to recovery, with a strong commitment to driving improvement. It remains the case however that the Executive Team are carrying a significant burden in terms of breadth and depth of responsibility during the transition period. An increased budget would enable the Executive Team to secure the additional resilience and capacity identified as necessary to ensure they are, in the short and longer term, able to lead the organisation through performance recovery and improvement.

14. [REDACTED]

[REDACTED]
[REDACTED]². Fol Exempt s. 36 (2) (b) & (c)

15. [REDACTED]

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED] Fol Exempt s. 36 (2) (b) & (c)

16. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Fol Exempt s. 36 (2) (b) & (c)

17. Taking into account the risks posed by resolving the budget pressures without additional funding, the Executive consider the proposed increase represents value for money and appropriately prioritises spend on a risk basis. Measures that will be required to achieve a balanced budget, if a variation is not agreed, will carry significant risk and those risks are better mitigated or avoided by a variation to the existing budget.

Budget Variation – Relevant Incurred and Anticipated Expenditure

18. The table below summarises the key areas of actual and planned expenditure that were not accounted for within the OLC’s 2020-21 budget and which, together with the information above regarding budget pressures, form the basis of the Executive’s recommendation that approval is sought for a budget increase of £344,315

Area of Expenditure	Incurred* and Anticipated Expenditure for 2020-21 Only.	Amount	Impact on Performance Recovery & Improvement
SENIOR LEADERSHIP RESILIANCE			
(1)	Recruitment Costs* [Costs incurred in recruiting for Chief Ombudsman and Chief Operating Officer roles].	£70,000	Ensuring that the OLC is able to appoint the strongest possible candidates to LeO’s two most senior posts, which will be pivotal to driving performance improvement.
(2)	Senior Team Restructure* [Re-grading for new roles within the Executive Team	£21,615	Restructure to ensure Executive Team are best placed to focus on strategic leadership and driving organisational performance improvement.

² [REDACTED]
[REDACTED]
[REDACTED]

	and acting up costs during CO vacancy]		
(3)			██████████ FoI Exempt s.40
(4)	New Post: Risk Manager	£18,000	Supporting Executive Team's effectiveness in driving organisational performance improvement by providing capacity to further develop the organisations risk management framework, including capacity to conduct assurance reviews led by risk considerations.
(5)	New Post: Project Manager	£20,000	Supporting the capacity of the senior leadership team by providing additional resource for managing significant organisational projects. LeO currently has 1 dedicated PM and this limited resource leads to the senior team being more involved in the management of projects than is necessary.
(6)	Finance Business Partner	£14,800	Provide capacity and resilience within Finance to support the Head of Finance in leading on improvement within the function, and in providing strategic financial leadership as part of the Executive Team.
(7)	██████████ FoI Exempt s.40	██████████	██████████ ██████████ ██████████ ██████████ ██████████.
(8)	New Post: Diversity & Inclusion Manager	£16,650	New post to provide expertise and resilience for HR / Governance in ensuring that LeO is an inclusive and diverse workplace, and provides an inclusive service for its customers.
(9)	Recruit to vacant post: Policy Officer	£13,250	Provide additional capacity within Impact / External Affairs / Policy, while the Head of fulfils interim Chief Ombudsman role. To start to take forward insight and transparency work identified in the 2020-21 business plan but paused due to resource constrains of standstill budget.
(10)	Forecasting Model Improvement - Commission Independent Productivity Survey	£20,000	External resource to support development of dynamic forecasting model which reflects organisational processes. An enhanced forecasting model will provide the senior leadership with more accurate short term forecasts enabling better targeted management interventions. It will also enable more accurate identification of processing times

			throughout the customer journey and therefore support identification of opportunities to improve organisational performance.
TOTAL INCURRED / ANTICIPATED EXPENDITURE		£271,165	
COVID-19 RELATED COSTS			
	Cost associated with accrued annual leave and providing for staff to carry over additional leave.	£100,000	Providing for expenditure above enables LeO to mitigate against the risks that would arise from managing budget pressures by constraining the 2020-21 pay remit.

Summary

19. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

FoI Exempt s. 36 (2) (b) & (c)

Appendix A

2020-21 Budget Calculation Errors

Operations Team	£265,000
External Affairs	£6,000
HR Budget Adjustment	£40,000
Legal Salary budget adjustment	(£1,350)
Finance Budget Adjustment	(£42,000)
Deputy Chief Ombudsman salary	(£7,500)
Survey over and above budget £27,000	£23,000
Budget error	£283,150