

<b>Meeting</b>	OLC Board Meeting	<b>Agenda Item No.</b>	8
		<b>Paper No.</b>	143.4
<b>Date of meeting</b>	17 December 2025	<b>Time required</b>	15 Minutes

<b>Title</b>	Annual legal update and enforcement report
<b>Sponsor</b>	Steven Pearson, Joint Interim Chief Executive
<b>Status</b>	OFFICIAL
<b>To be communicated to:</b>	Members and those in attendance

<b>Executive summary</b>	
<p>The attached paper provides the Board with an update on the work that LeO's Legal Team have been undertaking over the last 12 months.</p> <p>The majority of service providers honour LeO's Ombudsman decisions but where this is not the case we will, where appropriate, taken action to enforce the decisions for our customers.</p> <p>LeO's legal team take a proactive approach not only to the recovery of outstanding case fees but also the recovery of costs awarded to LeO after successfully defending judicial reviews.</p> <p>The attached paper also provides an overview of the options available to LeO when it comes to the recovery of those outstanding legal costs, including an exploration of alternative ways to recover costs that are owed.</p>	
<b>Recommendation / action required</b>	
Board is asked to note the content of the Legal Team's report	
<b>Equality Diversity and Inclusion</b>	
<b>EDI implications</b>	<b>No</b>
No	
<b>Freedom of Information Act 2000 (Fol)</b>	
<b>Paragraph reference</b>	<b>Fol exemption and summary</b>
n/a	
<b>Value for Money (VfM)</b>	
It is important that LeO takes a pragmatic approach to enforcement both for money owed to customers and money owed to LeO itself – this paper talks to the approach that LeO takes	

when considering what action to take on enforcement and reflects how Value for Money underpins its decisions.

The paper also talks to the pragmatic approach LeO takes to defending challenges to its own casework either by way of Pre Action Letters or Judicial Review claims. The Legal Team also ensures that processes and ways of working are reviewed in light of legal challenges, thereby avoiding the risk of recurrence or the need for rework.

# Annual legal update and enforcement report

## 1. Enforcement

### Enforcement of Ombudsman Decisions

Between 1 November 2024 and 1 November 2025, LeO made 1,027 final ombudsman decisions, of which 703 included a direction that the service provider provide a financial remedy. Of those 703 decisions, 463 were accepted by the complainant making them legally binding.

Where a service provider fails to adhere to a direction in a final decision, the complainant can refer the matter back to LeO who will then assess whether enforcement action should be taken by the Legal Team on behalf of the complainant. The Legal Team seek approval from the Ombudsman before progressing with enforcement.

Over the last 12 months the Legal Team received 22 new referrals to commence enforcement action, of those:

- 9 were closed before court action was initiated
- 1 was closed after successful recovery
- 1 was referred to the insurer
- 3 Other (2 were paid by service providers before any action was taken and 1 resolved by way of an inter-party agreement without the need for LeO intervention)
- 11\* are currently active, i.e. steps are being taken to progress to court (\* this includes some cases that pre-date 1 November 2024)

### Case fee recovery

The Legal Team have continued to seek recovery of case fees owing to LeO. The Legal Team work closely with Credit Control to ensure the process operates smoothly and that legal cases issued by the OLC are correctly issued and progressed.

The Finance Team start the process by sending out initial letters to service providers requesting payment within a prescribed period, if payment is not received within the prescribed period the case will be referred to the Legal Team.

On receipt of a case, the Legal Team send a further 'final reminder' seeking payment within 7 days. If payment is not received within the 7 days the Legal Team send a formal Pre-Action letter in accordance with the relevant court protocol on debt recovery. The Pre-Action letter again gives the service provider the opportunity to avoid further action if they make payment within a further prescribed period.

If the service provider still fails to make payment the Legal Team will lodge a County Court claim for the monies owed.

Over the last 12 months the Legal Team received 193 unpaid invoices from the Finance Team, of those:

- 68 are still within the prescribed period for the service provider to make payment
- 73 have been recovered, totalling £29,200
- 52 are awaiting other action (e.g. write-offs, court claims or separate action)

## 2. Legal Cases

### Judicial Review

A judicial review (JR) is a challenge to the legality of the Ombudsman's decision, and/or process.

The scope of JR is limited both in its availability and function: the role of the court is not to re-make the decision being challenged, or to inquire into the merits of that decision, but to conduct a review of the process by which the decision was reached in order to assess whether that decision was legally flawed.

Judicial review can be sought on the grounds that a decision is:

- illegal - arises when a decision-maker breaches a legal requirement, misdirects itself in law, exercises a power wrongly, or purports to exercise a power that it does not have, which is known as acting 'ultra vires';
- irrational - a decision may be challenged if it "is so unreasonable that no reasonable authority could ever have come to it";
- procedurally improper – a failure to observe statutory procedures or natural justice; or
- in breach of legitimate expectation – when a public body has failed to act in line with an expectation that it has created by its own statements or acts.

A JR can be brought by a complainant or a service provider. A JR broadly follows the following process:

- Pre-action stage, where the proposed claimant writes a Pre-Action Letter (PAL) on accordance with the requisite court protocol, setting out why they want to challenge the decision and the grounds on which they seek not rely.
- With input from the decision making Ombudsman the Legal Team will then draft a PAL response. The response sets out the risks, particularly adverse costs risks of pursuing a JR and failing and so many cases conclude at this stage.

- Where the PAL response is not accepted a claimant will apply to the court for permission on the papers (without a hearing). If the courts paper based decision is to refuse the claimant permission the claimant has an opportunity to request the court reconsiders the refusal at an oral hearing.
- If the court grants the claimant permission then claim will proceed through the formal JR process.

Over the last 12 months the Legal Team received 52 PALs, and 14 JR claims. The number of PALs is significantly higher than the previous period 1 November 2023-2024 during which 31 PALs were received. Current trends and PALs being received suggest that complainants are using AI and other tools to assist them in drafting their PAL rather than complainants needing the assistance of a lawyer. Both the previous period and this year's figures are set out below to assist the Board in making year on year comparisons:

	<b>Complainant</b>	<b>Service Provider</b>	<b>Total</b>
<b>1 November 2023 – 1 November 2024</b>			
<b>PAL</b>	26	6	32
<b>JR Claim</b>	8	6	14
<b>1 November 2024 – 1 November 2025</b>			
<b>PAL</b>	44	8	52
<b>JR Claim</b>	9	5	14

The current status of the 14 claims is:

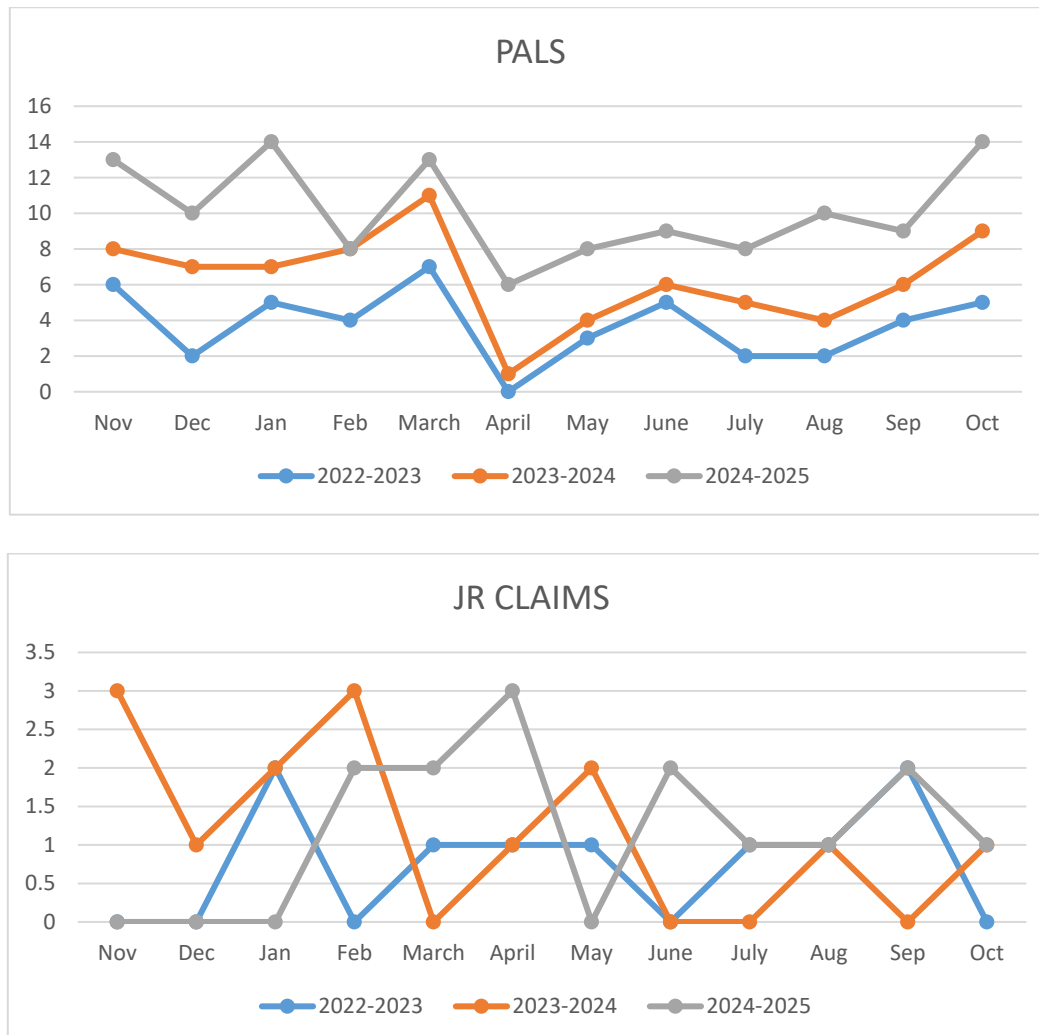
- 10 permission (on paper) refused
- 4 awaiting permission decision

In addition to the above, 1 case was granted permission and was subject to a JR in the previous period (2023-2024) but the Legal Team are currently appealing the decision.

The Legal Team will take a pragmatic approach at each stage of the JR process, balancing the litigation risk against the potential costs implications. The Legal Team also ensures that learnings from legal challenges are shared with operational colleagues and that, where appropriate, processes and ways of working are updated to mitigate the risk of recurrence.

If permission is granted by the Court to proceed with a JR Counsel is more often than not instructed to assist in the preparation / drafting of LeO's response as well as representation at any Hearing.

A further breakdown of the incoming PALS and JR's for the last three years can be found below. The nature of this type of incoming work for the team is inherently sporadic, with periods of lower activity followed by sudden increases in demand.



## Legal costs

In cases where a JR proceeds but the court find in favour of LeO the Legal Team will apply for 'costs' wherever appropriate.

Over the last 12 months the Legal Team have recovered:

- £3,751.79 in legal costs. This sum consists of payments made in full and money received in instalments through payment plans.

The Legal Team actively try and recover outstanding legal costs in line with *"the generally accepted principles of good governance"* (section 117, LSA), and the Managing Public Money guidance which states *"Public sector organisations shall take*

*care to track and enforce debts promptly. The presumption should be in favour of recovery unless it is uneconomic to do so”.*

Traditionally the Legal Team utilise High Court Enforcement Officers (HCEO) to pursue and recover legal costs, however, there are alternative options available in the event the debtor is unable to pay. Alternatives to HCEO's, which are all methods used by other ombudsman schemes are:

- Charging orders – a charging order is a court order that secures a debt against a debtors property (house, land etc), similar to a mortgage. It gives the creditor a claim to the proceeds of a sale or remortgage ensuring the debt is paid before the owner receives any funds.
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- Attachment of earnings orders – an attachment to earnings order is a legal document that requires an employer to deduct a specified amount from an employee's wages to pay off a debt. The order is issued by a court and the employer is legally obligated to comply. The amount deducted is a percentage of net earnings but ensuring the employee is left with enough to live on.
- Third party debt orders – a third party debt order is a court order that allows a creditor to collect a debt directly from a third party who owes money to the debtor, for example money owed to the debtor from a business, inheritance or a redundancy settlement.

The Legal Team have not utilised any of the above-mentioned methods to recover debt previously but have considered their use and are keen to explore these methods to improve the amount of legal costs being recovered.