

Consultation

# BUSINESS PLAN 2022 - 23



## CHAIR'S INTRODUCTION



### **The role of a Legal Ombudsman**

Ombudsman schemes operate around the world, across many different markets and sectors. They are widely recognised for their ability to resolve disputes with impartiality, but minimum formality, providing a trusted alternative to the courts. In many cases Ombudsman schemes have been established by businesses or service providers to promote consumer confidence in access to their markets.

Having a thriving and effective Ombudsman scheme within a legal services market is clearly essential. Legal services occupy a uniquely important part in our lives. Comparisons with other private sector transactions can be neither valid nor helpful with legal services often better seen as a public good.

A thriving and effective Ombudsman supports access to justice, providing advice and signposting to the public and making recommendations for improvement in service provision that go beyond simply resolving the individual dispute. It also addresses any inequality in the position of service providers and those service users who may be less likely to challenge and complain.

This consultation document has at its heart the provision of a thriving and effective Ombudsman scheme, meeting the needs of legal services providers and service users. When will the Legal Ombudsman be able to deliver this service and how much will this cost? This document aims to provide a clear and persuasive answer to both of these questions.

### **Three parts to the consultation**

Last year's consultation focused on the future and what the Legal Ombudsman scheme would need to do to deliver tangible improvements for its service users and to rebuild the confidence and trust of its stakeholders. This year's consultation combines both a backward and a forward look – a mid-year review of the first six months of 2021/22; a revised future improvement trajectory; along with a draft Business Plan setting out provisional plans for 2022/23.

The aim in this single document is to set out clearly and transparently what the Legal Ombudsman has achieved against its three Business Plan priority areas; what it hasn't and why not; and to question what it can and should do about this. Where we have answers, we have shared them. Where we are looking to you for answers, we have been clear about this.

### **Progress has been made**

The Business Plan for 2021/22 set out five commitments that would be delivered: A commitment to change; a commitment to reduce the backlog; a commitment to being transparent and accountable for delivery; a commitment to our people; and a commitment to doing things differently. Progress against many of these commitments has been substantial. In the mid-year review we want to do justice to this. As one sector leader recently put it "you are clearly motoring". My sense is that few now doubt the

hard work that is being put in, or that what the Legal Ombudsman is doing will deliver sustainable changes in the longer term, but this is a significant undertaking and it is taking time. You don't doubt the inputs but you need to see the outputs and to understand what impact this is delivering for consumers and legal service providers.

As the Legal Ombudsman has sought to deliver substantial organisational turnaround and transformation, it's become clear that its overall offering as an employer is not helping to attract and retain staff in the numbers set out in the Business Plan, undermining the achievement of the Business Plan forecasts. The mid-year review sets out the scale of ongoing change required and what is being done urgently to address this, alongside questioning when these less visible changes will have an impact on what is most visible – namely case closures and the size of the backlog.

As we move into the second half of the year it is essential that the Legal Ombudsman, the Board of the Office for Legal Complaints (OLC), and our stakeholders understand the causes of the problems along with the radical and pressing actions that now need to be taken to address these. This includes being both transparent about where the Legal Ombudsman's 'hands are tied' and setting out clearly what action should be taken to overcome these constraints.

### **The questions we've asked ourselves**

This is an open document where we have asked ourselves some difficult questions: Should we maintain the budget? Is there a risk of not being able to spend this next year because we cannot get the right people? How is the sector likely to respond? What are the implications of asking for a reduced budget? We have tried to show you our 'working out' in responding to these questions.

We have also asked ourselves what's the change of direction now required? What different needs to happen? What could be done if the Legal Ombudsman's hands weren't tied? Ultimately all of these questions come down to *'What could change the Legal Ombudsman's ability to get the people it needs?'*

### **Importance of the consultation questions**

This level of openness and transparency matters. In the 2021/22 Business Plan we willingly committed to more public dialogue and enhanced public accountability and we've been true to this over the last six months. Previous consultations have indicated a desire for more information on performance and a desire to understand more about what the Legal Ombudsman is doing in response to the challenges it faces. This consultation should therefore be read alongside the more detailed performance information that has been shared this year, including through the commonly agreed dataset, and regular stakeholder engagement and updates.

This transparency will continue. The OLC recognises that the Legal Ombudsman is an improving organisation, but it is not improving quickly enough; that it is working in a difficult environment that is affecting many sectors; and that the big challenge is around getting and retaining the right people. We want to use the consultation to find out what more could be done, to continue to adjust and learn. We welcome your consideration and response.

## CHIEF OMBUDSMAN OVERVIEW



### The recovery journey

The Legal Ombudsman's Business Plan for 2021/22 set out the basis on which we would seek to deliver recovery and much needed stability. We were always clear that this could not happen overnight and therefore set a two-year improvement trajectory with a focus on investment in people and new ways of working in 2021/22 leading to incremental growth and stabilising the backlog into 2022/23. At the mid-year point of 2021/22 this remains our focus.

We committed to being open and transparent and to providing a mid-year review which forms the first part of this consultation document. This is an opportunity to show both what has been achieved and also the challenges that we have faced.

We are behind the trajectory of performance improvement and recovery that we set ourselves and we are currently forecasting a longer recovery journey through 2022/23 and beyond than was initially thought. This will raise understandable questions about when an acceptable level of service will be reached. The forecasts in section two of this consultation show that 2022/23 will see further pace brought to this as significant investment in recruiting and training new investigators begins to deliver increased productivity. Our review of Scheme Rules and associated wider business process change are being progressed urgently this year and next. We will deliver these changes in parallel with benefits realising over 2022/23 and into 2023/24. A final revised forecast taking account of these more radical changes is included in section three. This crucially sets out the Legal Ombudsman's vision for delivering an acceptable level of service for customers, providing a benchmark against which the Legal Ombudsman and any dispute resolution scheme in legal services should be judged in the future.

### Recognising progress

Significant progress has been made in stabilising the Legal Ombudsman and delivering on Business Plan commitments over the first six months of 2021/22. These include:

- Delivering more case closures with significantly less investigators. The first 6 months saw a 30% year on year increase despite being 16 to 20% down on established investigative FTE.
- Already delivering a significant change by doing things differently and more proportionately, investing in early resolution work that has delivered 392 case closures without the need for investigation. This work will continue to offer additional early closures, and improved customer journey times for these customers, at a stable rate with up to 800 delivered across the year; opportunities to speed up the complaints process have been successfully piloted and mainstreamed and are already delivering improvements with more in the pipeline for later this year.
- More efficient investigations with quicker investigation times across all case complexities. These are 10% quicker overall.

- Making real progress on addressing performance variations. Individual productivity figures have improved in year by one case closure per established investigator per month.
- Developing our workforce planning. Recruited into 70 operational roles, with 50 external appointments and a further 12 investigators expected each from September and November recruitment campaigns.
- Developing, recruiting and training into a new GET Investigator role which maximises case closures and allows for the more effective use of expensive investigator resource.
- Investing more in our people and improving the organisation's culture with staff engaged in the recovery process and sharing expertise. Developing a clearer understanding of the issues and required solutions.

However, against this backdrop we have faced challenges which have impacted upon our performance:

- A difficult recruitment market meaning that we do not have enough people in the right roles. This is critical to our delivery plans and we know we are not the only organisation or sector affected by this.
- Unanticipated loss of key staff which has removed crucial skills and experience and has critically undermined our ability to reach Business Plan targets.
- Continued increase in demand, growing by 23% between 2019/20 and 2020/21, and maintaining at similar levels the first half of this year.
- The ongoing impact of Covid which continues to affect both staff and those of legal services providers.

### **The importance of our people**

The draft Business Plan for 2022/23 continues our focus on our people and delivering different ways of working. Our progress is being critically undermined by not having the required number of people in the business and significant shortages in the labour market at a time when we are upscaling and investing in new investigative teams to address the backlog.

We know that the investigator community are key to customer outcomes and delivering an improved trajectory. We will need to retain our focus on supporting existing and new teams to deliver, whilst also implementing further changes to help ensure that our people are able to deliver as effectively and as efficiently as possible.

### **What needs to be done differently?**

Keeping course with that strategic focus and multi-year plan of improvement remains the right approach and will deliver given time. We remain committed and convinced that we are doing all of the right things to improve our service. We are also now clear that it will take longer than we had anticipated to remove the backlog of people waiting to access an investigation.

If we continue to work within the current parameters and restrictions our initiatives and improvement plans alone will not clear the inherited backlog by the end of 2023/24. To shorten the journey to an acceptable position we must therefore think even more radically and look at the best ways to overcome these challenges, both

internally and within the environment we operate within. The restrictions on the scheme need to be openly acknowledged, addressed and removed. Further step changes are needed alongside those already delivered in 2021/22.

We are open to thinking differently around our approach and this consultation is focused on a constructive conversation with our stakeholders on the approaches to these challenges.

## SECTION ONE: 2021/22 MID-YEAR REVIEW

*In setting out its Business Plan for 2021/22, the Legal Ombudsman acknowledged the extent of stakeholders' expectations for an improvement in the experience of those who use the service, and therefore the need for change. The organisation's leadership made a commitment to take steps to improve performance and lay the groundwork for future stability. It welcomed the provision of additional funds, explained how these would be used and the impact that could be expected over a two-year period, with a commitment to new ways of working and significant growth in output from new investigators in year two.*

*This mid-year review re-visits the plan and provides a report against progress in the first six months. It shows an organisation that has made significant progress, particularly in identifying the opportunities for process improvements and starting to make changes which will have a long-lasting impact. Despite these best efforts, an exceptionally challenging employment market has had a negative impact on operational performance. Some of the challenges faced by the Legal Ombudsman are internal constraints or those over which it has some control and which can be addressed in the rest of 2021/22 and 2022/23. Others are external and will require more time to change,*

*Section Two of this document sets out what this is likely to mean for the rest of the year and into future years. Section Three sets out what more will be done to directly address and overcome these challenges.*

### 1. Towards sustainable improvement: Delivery against priorities for 2021/22

**Priority One:** To support existing staff to increase performance and productivity.

People are critical to the success of the Legal Ombudsman, and it was clear that change was needed to improve staff engagement and make sure that the right support was in place to enable people to succeed in their roles. Underpinning the delivery of the Business Plan in 2021/22 has been the investment the Legal Ombudsman has made in its people and organisational culture, bringing a different and increased level and type of engagement and cohesion to the workforce.

This has included an organisation-wide initiative to work towards a common purpose of improving customer service. Many have demonstrated creativity and commitment in identifying solutions to problems and then working to pilot and implement change. Leadership development has taken place to get the right balance between supporting and developing people and delivering outcomes for customers.

Whilst individual productivity (in terms of the number of cases closed) against the previous year has improved, the ability to reach the Business Plan case closure target and the unacceptable wait times for customers has been compromised by insufficient people in the organisation to deliver the service required.

### **The scale of the challenge**

Since the start of 2021/22 the Legal Ombudsman has been around 20% below established investigator numbers: In April there were 14 fewer investigators than required, in June 20 fewer, and in September 16 fewer. This is despite the fact that more than 50 external people have joined the organisation in operational roles in the first six months of the year.

Whilst significant investment in recruitment and training new investigators will bring returns in the long run, this level of change and transition across operational and corporate support roles clearly brings a degree of instability in the short term, including losing productive investigator closures from internal movers. By November 2021 there will be a split within the business of 58% established and 42% non-established within the investigator community. This means there is a significant proportion of less experienced staff who require careful support and management, particularly as it takes time to develop casework competency with operational staff.

### **Balancing priorities one and two**

The ability to manage business as usual (BAU) alongside recovery projects, improvement initiatives and rebuilding the corporate capacity and resilience means that key staff have been stretched across multiple projects. The mid-year review has highlighted the challenge between the ability to maintain case closures this year, but at the same time increase operational resources (to increase closures in the future) and deliver pilot projects (to refine operational processes and speed up case closures). Within operations the business is continually calling on a relatively small pool of high performing staff to keep up BAU whilst supporting these other areas.

### **Addressing performance variation**

The Legal Ombudsman recognises the need to provide a value for money service and that includes having each team member delivering results in whichever part of the organisation they work. There is a disparity between top performing team members and those that need to achieve more, and this has brought strong focus on addressing performance variation and delivering value for money. This level of scrutiny contributes to increased attrition<sup>1</sup> which has a direct impact on case closures but is the right thing to do for stakeholders and customers.

### **Impact on the pre-assessment pool (PAP)**

Through the first six months of 2021/22, the length of time for an investigation to conclude from the point at which it has been removed from the pre-assessment pool (PAP) fell by 9.83% which is on average a 12-day reduction from 2020/21. That is an improved service for those customers who are allocated an investigator.

However, a consequence of the lack of investigator resource is that customers' wait times to have their investigation start continues to be at an unacceptable level and the pool of cases awaiting investigation has continued to increase. There remains a substantial and unacceptable number of customers waiting for an investigation at the

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<sup>1</sup> Circa 70% of the 19 operational resignations in 2021/22 had a corresponding concern about successful completion of probation or reaching required levels of output and performance for customers.

start of the process with cases waiting to be worked causing significant delays to the overall timeliness.

At the end of September the PAP stood at 5677 against a Business Plan forecast of 5225.

**Priority Two:** To identify innovation opportunities that speed up the complaints process.

A key ask from stakeholders last year was to focus on doing things differently. The Business Plan made it clear that, whilst additional capacity was essential to reducing the backlog and improving the experience of customers, there was a need for change.

Significant activity has been undertaken to identify, test and implement business process change. This has focussed on streamlining and simplifying processes, ensuring proportionality and seeking opportunities for early resolution approaches. At certain points in the first six months a huge percentage of operational staff have been involved in both contributing to, and implementing, new ways of working. Because of the balance of skills in the workforce and the consistent resourcing challenge the Legal Ombudsman has had to be agile and deploy resources and prioritise daily. The challenge of the PAP is shared by all. Investigators, General Enquiries Team and ombudsman work in a task and finish way, whilst others are focussed on testing new ideas or resolving cases for customers. Going forward the Legal Ombudsman will frontload resources and the process to manage cases that join the PAP in an even more proactive way.

### **Innovation work started**

The focus has been on finding ways in which customers cases in the PAP are addressed as quickly as possible. Alongside this a number of initiatives have been implemented which have delivered efficiencies in the process and reduced investigation time across all case complexities. Inevitably, this work requires a substantial input from experienced staff and so has a negative impact on resources in the short-term. It will continue to be essential to find the right balance between the investment in change and maintaining business as usual.

Specific initiatives include:

**Opportunities for the early resolution** of cases in the PAP, without the need for a full investigation. These are cases where first tier offers are consistent with the likely outcome of a full investigation.

*Status:* Guided Negotiation and Reasonable Offer Made have been piloted and moving into mainstream work. Further projects being scoped as a result of Scheme Rules work.

*Impact:* Reasonable Offer Made and Guided Negotiation projects have resolved 392 cases without the need for a full investigation. It is expected that in the full year, approximately 800 cases can be resolved

in this way. Work is underway to ensure the appropriate reporting of this activity.

**Specialist law teams** are being trialled in direct response to stakeholder feedback. They are currently focused on probate and personal injury.

*Status* Pilot phase established in Q2.

*Impact* TBC. Expectation that specialist knowledge will lead to faster outcomes for customers and support identification of themes for learning and insight.

**General Enquiry Team Investigator (GETi)** role has been created to provide investigation-ready files and close low complexity cases at an earlier stage.

*Status* Pilot phase established in Q3.

*Impact* Data due in Q4. Expectation that role will speed up timeliness of investigations and therefore case closures levels.

**Process reviews** to identify a wide range of efficiencies and delivering on those such as scoping complaints and endorsement of decisions.

*Status* Projects undertaken on key areas as quality reviews have indicated improvements are required.

*Impact* Updated guidance and refinements of process which will support timeliness and streamlining.

**“Grad bay”** will see new starters grouped into two teams with designated team leader, buddy and ombudsman support. This will better support them through the probationary period.

*Status* Implemented for September new starters.

*Impact* TBC.

**Robotic Process Automation (RPA)**. Will free up manual intervention into the 110,000 enquiries coming in and will also lead to further exploration of changes to how we create files, capture data and communicate with customers at the front end.

*Status* Phase 1 of RPA was launched in Q2 and transfers complaints from the online complaint form to CMS. Phase 2 is in development.

*Impact* Phase 1 saves 0.4FTE of GET Adviser time allowing time to be spent on customer facing activity.

**Priority Three:** To focus learning and insight work on providers who require support to prevent and resolve complaints.

In 2021/22 the aim has been to respond to requests for support and engagement from the sector, whether through training or policy work, and to begin building stronger internal mechanisms for generating learning and feedback from legal service providers. A cross-organisational Learning Group has been established and an Advice Line for service providers has just been launched. A Personal Injury thematic report is being finalised and has been shaped through early conversations with the sector.

Online workshops on the top five areas of law took place in the early part of the year and further workshops are scheduled for the second half of the year as face-to-face engagement begins to be more commonplace once again.

Work has also taken place in the first half of the year to support the Solicitors Regulation Authority /Council for Licensed Conveyancers transparency projects as well as looking at the feasibility of publishing full Ombudsman decisions as a way of enhancing the insight and impact from casework.

In the Business Plan a clear commitment was made to transparency and being accountable for performance. This has been met through an open dialogue being established and maintained with all stakeholders on Business Plan progress, performance and forecasts. An engagement plan has been in place across the year to ensure that stakeholders hear from the Legal Ombudsman and the OLC at key points, whether through the frequent Voluntary Assurance letters to the LSB (which are published), blogs or openly sharing the most recent commonly agreed dataset update.

The Stakeholder Challenge and Advisory Group was established in April and has met several times with a view to understanding and advising on recovery plans.

## **2. Understanding the challenges: What's constraining improvement?**

While there are some very encouraging underlying signs of improvement as a result of the changes that are already in train, it's important to be realistic about the impact of the two most significant challenges facing the organisation as it seeks to improve.

The first of these is the scale of the improvement required. At the start of 2021/22 the backlog of work - which had built up as a result of historic underperformance and the Covid pandemic - was greater than the most optimistic forecast of what the organisation could achieve in-year and was higher than the entire annual output achieved in the previous year. Improvement plans have always required a medium to long-term view. The operational cost of servicing such a backlog is not insignificant. It requires additional ongoing communication and can mean longstanding complaints are more challenging to resolve. The passage of time can cause the parties to a complaint to become more entrenched in their positions, or the recall of events can become less clear.

As noted earlier in this section, the major reason for the failure to meet Business Plan targets has been the prevailing employment market conditions which have affected the ability to reach the required numbers of people in investigative teams. This has included recruiting sufficient numbers of new people of the right quality alongside an unexpected increase in the number of people leaving the organisation. The established investigator FTE has been 16% below 2021/22 Business Plan assumptions, at points below by as much as 20%. This has been the direct contributing factor to the decline in closures and reduces ongoing productivity as it takes new investigators significant time to become established.

The Legal Ombudsman is tackling these two challenges. There are measures that can be taken which are completely within the organisation's own control, whilst there are some measures which are not possible to progress without the support and assistance of stakeholders. Each measure requires resources which need to be seen as a necessary investment in the future improvement of the scheme.

<b>Becoming an employer of choice</b>	
What the Legal Ombudsman is doing/ will do	<p>Taking steps to tackle this through the People Strategy. This will, among other things, review the employee proposition taking account of the approach to diversity, pay and reward, and the development of our people.</p> <p>In Q3 2021/22 working with a managed recruitment service with specialist recruitment skills to identify a broader range of potential applicants and to conserve internal resource for delivering business as usual.</p>
Where further help is needed	<p>These steps will not deliver sufficient change in the short term. In similar circumstances many other organisations have the freedom to contract out some of their workload, through the engagement of agency or temporary casework staff.</p> <p>The Legal Ombudsman is unable to do so under the provisions of the Legal Services Act and will seek support from stakeholders for a review of these provisions.</p>
<b>Improving our process</b>	
What the Legal Ombudsman is doing/ will do	A number of process improvements are already in hand and are set out under Priority Two.
Where further help is needed	There are inefficiencies in the way that the Scheme Rules define the process for dealing with complaints. This can lead to

	<p>duplication of work and frustration for both the service provider and the complainant. Some of these changes come down to reinterpreting the Scheme Rules to deliver process efficiencies but many require actual change.</p> <p>The Legal Ombudsman has brought forward a review of its Scheme Rules to Q3 and will formally consult with the sector before the end of the year.</p>
<b>Responding at pace to recruitment problems</b>	
What is within the Legal Ombudsman's control	Three recruitment rounds have taken place bringing in 50 new people from outside the organisation. MoJ support for a managed recruitment partner to support the pipeline of investigators from January 2022 has been secured.
Where further help is needed	<p>The Legal Ombudsman faces a number of restrictions on flexibility to procure and contract recruitment solutions. Reducing the business case approvals process when quite small amounts of spend are required on advertising or to procure the use of a specialist agency to fill roles will allow for a more agile, proportionate, faster response to challenges as they occur.</p> <p>The Legal Services Act only allows those directly employed by the Legal Ombudsman to investigate casework. The use of agency or interim staff are not permitted, eliminating the opportunity to fill roles quickly and respond to surges in workload.</p> <p>Along with the rest of the public sector the Legal Ombudsman has been subject to a pay freeze for its staff this year. Grade bandings and corresponding pay structures are relatively flat and career opportunities can be limited both in corporate and operational roles. Work needs to take place with MoJ colleagues to understand how to address this challenge.</p>

## SECTION TWO: LOOKING FORWARD – WHAT CAN CUSTOMERS EXPECT THROUGH TO 2023/24

*In the context of its performance and improvements in the first six months, the Legal Ombudsman continues to assess the impact on the performance trajectory for the remainder of 2021/22 and into future years. This includes assessing the ongoing and planned benefits of new ways of working and analysing the impact of the ways in which further efficiencies in our process can be created through the delivery of Priority Two. Key to this is bringing further rigour to the modelling and ensuring confidence in the underpinning assumptions. This is essential in terms of the integrity of the relationship with stakeholders and not over-promising and under-delivering.*

*The revised performance trajectory, based on delivering against the actions planned for the remainder of 2021/22 is set out below in Section Two. These show that, with the right people in place, a change in performance will be delivered across 2022/23 which will continue to produce new ways of working and reaching historic levels of closures for the Legal Ombudsman. This brings with it a sustained and substantial reduction in customer journey times as the wait time either to achieve an early resolution or access an investigation continues to decline. Alongside quicker investigation times achieved this year this will deliver an overall improving, if not yet acceptable, customer experience. 2023/24 not only sustains but improves upon this upward trajectory.*

*This trajectory shows an improving picture from a very difficult starting point. The scale of the inherited backlog in the PAP was larger than the entire output of the organisation in 2020/21 and this remains a critical factor as the Legal Ombudsman emerges from a highly destabilised number of years. Whilst the backlog will stabilise and reduce in 2022/23, it remains at an unacceptably high level because of that starting point. As a result, within current parameters, although the backlog will be at a more manageable level and customer times will have reduced, there will still be a substantial backlog by end of 2023/24.*

*The forecast and trajectories outlined in this section do not yet take account of planned changes including changes to our Scheme Rules and further change to business process. The Legal Ombudsman remains confident that we can achieve an acceptable level of service, but the process will take longer and is not as linear as originally planned. It is clear that further and more radical change is needed. Section Three sets out how the Legal Ombudsman will seek to deliver that change.*

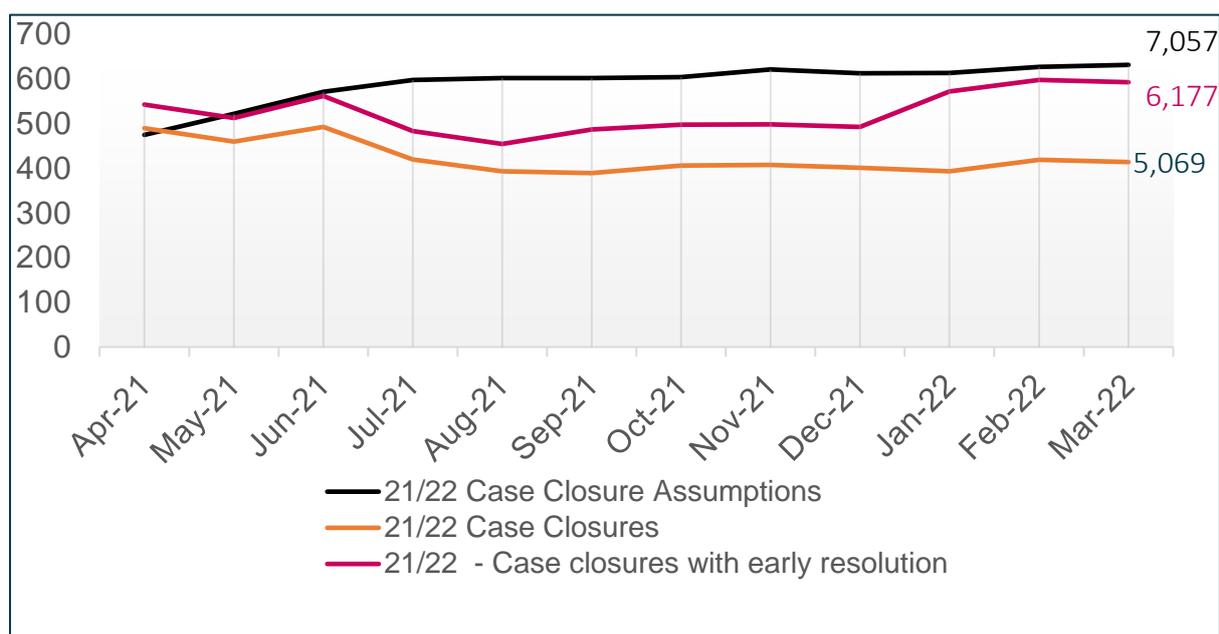
## 1. What the forecasts show: 2021/2022

The current Business Plan set out 2021/22 as a year of recovery and stabilising the performance position with closures increasing and the PAP continuing to grow but reducing by the end of the year. The analysis set out in the mid-year review demonstrates an improved year on year performance position in the first half of 2021/22 (despite a below planned FTE position) but a position that is below Business Plan assumptions for closures and with a PAP backlog above the forecast position.

The remainder of 2021/22 is focused on recovery and also continues to be hampered by the restrictions and challenges faced in the first half of the year – particularly with a significantly below forecast capacity of investigative FTE, high levels of attrition and other key assumptions impacting heavily on the ability to meet closure targets set out in the Business Plan. This is a position which is recovered to some extent by the hugely successful impact of Early Resolution initiatives which is delivering significant numbers of additional case closures without the need for investigation. “Reasonable Offer Made” and “Guided Negotiation” together have resolved 392 cases without the need for a full investigation. This is projected to rise to c.800 cases across 2021/22 with a reduction in customer journey time for these case types. Further emphasis on delivering a proportionate approach to investigations will ensure that customers’ expectations as to likely outcome are clearly managed from the outset. This will ensure that cases are only progressed where a full investigation is necessary.

The latest revised forecast below shows the extent to which closure numbers are below the figures originally set out in the 2021/22 /Business Plan. By taking into account additional numbers from early closures (Guided Negotiation and Reasonable Offer Made) the numbers remain below the Business Plan forecasts but with a reduced 12.4% gap between Business Plan assumptions and our forecast performance as a monthly average.

## Closure forecasts 2021/22



From a customer perspective, customer journey times will continue to increase across 2021/22 as the organisation continues to recover from increased attrition and as the number of customers awaiting an investigation grows. This will be offset to some extent by the increased number of early resolution closures and more efficient investigations.

Early resolution work is delivering significant numbers of additional case closures without the need for investigation. For these customers this delivers significant benefits with a reduction of overall customer journey times by 52%. Over time the early resolution closures will contribute to an overall positive impact on customer journey time.

More efficient investigations will also continue driving quicker investigator times across all complexities. The table below provides a comparison of the first six months for 2020/21 and YTD 2021/22 with a 10% reduction in investigative times across all case complexities compared to the previous year.

### Case investigation times

Case Complexity	20/21 First six month (days)	21/22 First six months (days)	Variance	% Variance
Low	98	92	-6	-6%
Medium	165	142	-23	-14%
High	271	218	-53	-20%
All	122	110	-12	-10%

## 2. What the forecasts show: 2022/23 to 2023/24

The forecast below sets out the expected performance position for the customers of the Legal Ombudsman across 2022/23 and 2023/24.

The Legal Ombudsman will deliver increased and sustained improvements in performance across 2022/23 and 2023/24. Case closures will increase, and customer journey time will reduce as the backlog of customers awaiting to access investigation reduces.

Closures increase early in 2022/23 and continue to increase by over 20% and to historic high levels throughout the year as new teams come to productivity and new ways of working continue to deliver. Case closures begin to increase in Q1 as the gap between in post FTE and budgeted FTE is bridged. The positive impact of new teams of investigators recruited through 2021/22 is a crucial element of this. New teams will be trained through an improved induction and onboarding process which will support them to reach productive levels in 2022/23 more quickly than previously expected. The aim is for new investigative teams to become productive quickly, with both new and existing teams being retained and supported to maximise their productivity and performance.

Increased productivity is also expected from closer management of performance and of underperforming individuals in particular. Current productivity is running at 5 closures per month, and this is expected to increase to 5.8.

Increased closures and continued backlog recovery work will have a positive impact on customer journey time. The forecast shows that with budgeted FTE in post and increased productivity, the wait time in the Pre-Assessment Pool will reduce by the end of 2022/23 by 29%, in comparison to our final projected position in 2021/22. The chart below shows the reduction in customer journey times by case complexity as the PAP reduces. This leads to a more sustained acceptable position. The best case scenario shows that further reductions in the overall customer journey time are possible, for example by increasing early resolution closures, work to address proportionality of investigations and if investigations continue to be completed more efficiently.

### Reductions in customer journey times

Trend PAP volume	Complexity	% reduction Year-end to Year 2 (2022/23)
Best Case Scenario	Low	21%
	Medium	22%
	High	78%
Likely Case Scenario	Low	16%
	Medium	6%

	High	65%
Worst Case Scenario	Low	9%
	Medium	-9% (Increase in days)
	High	51%

By 2023/24 a significant change is made with sustained delivery of closures of 800 per month which includes the expected addition of early closures. This delivers closure levels significantly above historic peak performance monthly closure averages and provides a significant rate in reduction of the PAP. By the end of 2023/24 forecasts show that overall output for the organisation will sit at 9,708 closures which is over double the rate of output achieved in 2020/21.

### Case closures 2022/23

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Cases closed after investigation	514	525	560	576	583	600	605	603	620	622	631	608
Early Resolution Closures	116	116	116	116	116	116	116	116	116	116	116	116
22/23 - Overall Total	630	641	676	692	699	716	721	719	736	738	747	724

### Case closures 2023/24

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Cases closed after investigation	694	698	683	684	675	707	695	691	706	696	705	682
Early Resolution Closures	116	116	116	116	116	116	116	116	116	116	116	116
23/24 - Overall Total	810	814	799	800	791	823	811	807	822	812	821	798

## 3. Pre-assessment pool (PAP) trajectory

The table below sets out the forecast for the PAP based on a core demand of 600 per month. A case goes into the PAP where full information is available and a review has taken place to determine the likely complexity of the investigation. The complaint will be added to the PAP to await a detailed assessment by an investigator.

Incoming cases for the PAP increased between 2019/20 and 2020/21 by 23%, or from an average of 495 per month to 600 per month. There is no clear trend or analysis available to explain this demand change but the rate of demand in reporting is now consistently at this level and we are confident that demand will remain at this

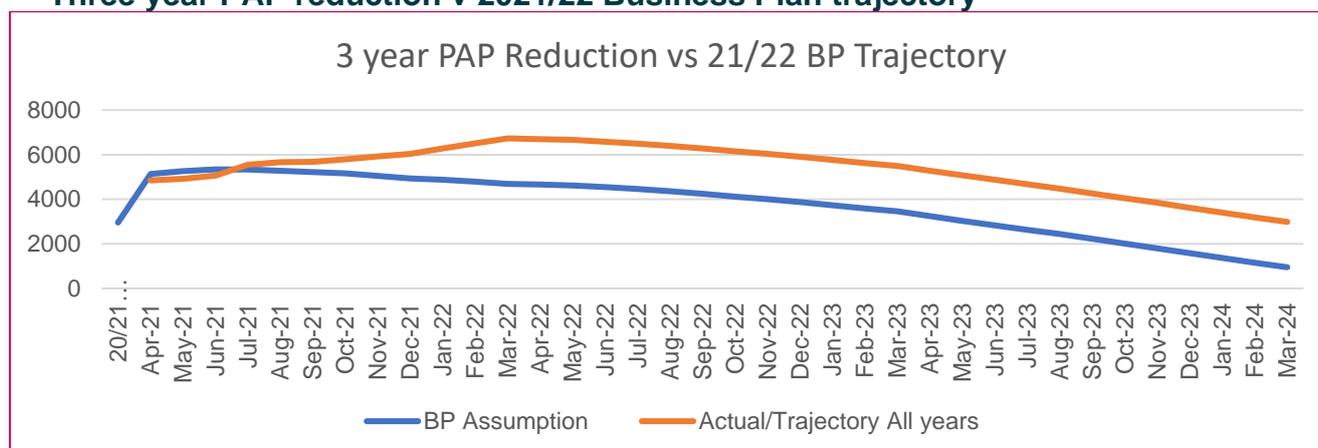
stable rate into 2022/23. Changes will be monitored and reported on a monthly basis allowing us to respond to this. The impact of any implementation of demand management measures as outlined in Section 3 will be assessed. The trajectory below takes into account a Q4 known performance spike in year which will inflate the PAP and occur as General Enquiry Team resourcing increases and focuses on incoming cases. As can be expected, with a reduced level of resourcing driving reduced case closures, the numbers on the PAP are forecast to continue to increase until the second half of 2022/23. After this point case closure numbers increase as the PAP decreases. The 2023/24 forecast continues this trend as the balance within the investigator community shifts to a higher level of established investigators.

A larger than anticipated PAP in years one and two drives the year three final number of 2,985.

### Cases in the PAP

Year	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
<b>21/22 BP Assumption</b>	5129	5262	5340	5339	5282	5225	5166	5048	4939	4870	4785	4696
<b>21/22</b>	4840	4924	5068	5552	5664	5677	5797	5916	6041	6287	6507	6732
<b>22/23</b>	6702	6661	6585	6493	6394	6278	6157	6038	5903	5764	5617	5493
<b>23/24</b>	5283	5069	4870	4670	4479	4256	4045	3838	3616	3404	3183	2985

### Three year PAP reduction v 2021/22 Business Plan trajectory



## 4. Confidence in revised forecasts

An essential element of forecasting future performance trajectory is continuing to monitor and assess the assumptions that underpin this. The 2021/22 Business Plan was built using assumptions which underpinned the forecast trajectory. Monitoring the performance of the assumptions throughout the year against variables of worst, likely and best-case scenarios, adds control and provides current and accurate forecasting as it shows a clear view of business performance against the Business Plan.

Monthly reviews also support a proactive approach to mitigate issues specifically around attrition. This provides transparency across all business areas, creating a joined up and collaborative way of working.

This enhanced understanding and reporting means the Legal Ombudsman can offer assurance to stakeholders that the forecast positions are robust and are based on real time information which triangulates data from HR, finance and the business, and flows into updated performance forecasts.

As a result of this work, these assumptions about the customer journey have now needed to be updated:

Covid-19	The forecast was based on an assumption that the impact of Covid-19 on staff would reduce much more quickly during the year. Instead significant numbers of staff continued to be impacted by school closures in particular.
Annual leave	As a result of Covid-19 staff were allowed to carry over a higher level of annual leave. This has resulted in increased leave being taken over recent summer months and therefore reduced operational working days available.
Staff numbers	As previously noted the expectations for recruitment have not been realised in practice. The number of established investigators within the business is around 20% less than expected and required.
Attrition	Attrition figures within operational teams have consistently increased since April 2021. Resignations in September and October cite career progression and terms and conditions as reasons for departure in 67% of the cases. Between April and September 2021 there were 19 resignations from operations, 14 of those were linked to performance challenges. A natural movement after Covid-19 and a highly competitive labour market and skills shortage linked to an increased focus on performance outputs for customers is driving a higher level of attrition.
Sickness	The assumptions take into account long term sickness as an FTE loss with an increase in mental wellbeing playing a significant factor. Short term sickness also impacts performance but is not monitored in the assumptions but is recognised that this will need building into future assumptions.
Reallocations	Reallocations are a direct impact of attrition and long-term sickness as individuals case holdings are moved to another team member to ensure the customer journey is not delayed further. In turn this means that fewer cases are taken from the pre-assessment pool. Reallocations increase in line with attrition and long-term sickness.
Demand increase	Demand for the Legal Ombudsman service has increased since 2019/20. The number of cases being added to the pre-

assessment pool was 23% higher in 2020/21 than in 2019/20 and is forecast to be similar for 22/23.

The forecasts for the second half of 2021/22 have all been thoroughly tested by the OLC Board's Task and Finish Group and the assumptions have been revised based on the following:

- Reduced levels of available investigative resource as a result of increased levels of attrition, sickness and relocations against the original Business Plan assumptions.
- The impact of new investigation teams both in terms of the time when they join and the expected productivity levels up to an established level.
- Managed recruitment service will have a significant impact on reaching the budgeted FTE in Q1 of 2022/23 and prevent loss of resource from operations to support recruitment.
- Investigator numbers will reach expected levels going into Q1 2022, starting with an FTE in post of 132.33 which will be supported by the new recruitment partner.
- The expected split of established against non-established will start with a 60/40 split which will have a temporary negative effect on closure numbers. The gap will decrease as new cohorts move to established, meaning closure numbers will increase throughout the year.
- Early resolutions for customers in the form of Reasonable Offer Made and Guided Negotiation will continue to offer additional closures at a stable rate throughout the year and are a valid addition to the overall closures numbers.
- Customers benefit in a reduction in their overall journey. On average the customer journey time for a customer with a low complexity case is 303 days. The average journey time for a case resolved via an early closure average is 145 days. This results in a 52% reduction in overall customer journey time. The expectation is that the customer journey time will reduce as we continue to work through the backlog.
- Established investigator productivity of an average of 5.8 case closures per month, which will be driven by performance management of members who are currently not performing to that level.
- The new GET Investigator role is included in the trajectory and expected to deliver 41 closures per month. This is based on current performance and is also supported by more resource being planned to support this process.

## **SECTION THREE: BUSINESS PLAN AND BUDGET 2022/23**

*As with the current Business Plan, the plans for next year focus on continuing to rebuild organisational stability and performance levels. The work that has taken place in 2021/22 provides firm foundations for progression next year, so 'Plan A' will continue.*

*While section two demonstrates that Plan A is already delivering benefits, it is taking too long to reduce the PAP backlog and secure a sufficient improvement in customer experience. The challenges faced by the scheme are substantial. It is clear that, in addition to delivering the two-year plan, further and radical change is now needed if these challenges are to be addressed.*

*Ultimately, the critical questions that must be answered by the 2022/23 Business Plan are: 'What will change the Legal Ombudsman's ability to get the people it needs?' and 'What will deliver an acceptable service as quickly as possible?'*

*The 2022/23 Business Plan identifies further activities and initiatives which provide the significant change that is required. The four significant and radical interventions at the heart of Plan A Plus are:*

- *Changing the Scheme Rules to rebalance the legal framework towards minimum formality in resolving complaints.*
- *Committing further to early resolution and proportionality.*
- *Introducing demand management to provide greater control over the number of cases accepted for investigation.*
- *Ensuring outsourcing and operational partnerships are made possible*

*The Legal Ombudsman is committed to implementing the change required at pace and assessing all possible options for achieving that change as quickly as possible.*

## 1. Overview of priority areas

### ***Priority One: Support our people to increase performance and productivity.***

During 2022/23 Priority One will build on the progress made in 2021/22 to stabilise performance and will support the Legal Ombudsman's people to deliver a step change in performance across the year. The Legal Ombudsman will be an employer of choice for both existing and new staff to ensure the business is resourced with the right number and quality of people. The Legal Ombudsman will ensure it has the flexibility to attract, appoint and retain the people it needs.

*The focus areas will be:*

- *Attracting and retaining the right people.*
- *Developing our people.*
- *Addressing performance variation.*
- *Organisational stability*

*The expected outcomes from this work are:*

- *Increasing the levels of case closures by over 20% over the course of the year to historic high levels for the Legal Ombudsman. Forecast average above 700 closures per month with the addition of early resolution closures.*
- *Delivery of the People Strategy which will support the retention and development of people at the Legal Ombudsman.*
- *Greater level of stability within operational teams and in key corporate functions which supports overall organisational performance.*

### **Attracting and retaining the right people**

Post-Covid retention has become a significant challenge for both operational and corporate staff. 67% of those staff leaving in September and October have said they are doing so as a result of better employment pay/prospects elsewhere and recruitment has been difficult. During 2021/22 this is being tackled by:

- Ensuring the right level of resources are in place for the start of the 2022/23 business year to hit the ground running.
- Benchmarking pay and employee terms and conditions with other employers.
- Exploring the benefits of linking pay to performance.
- Working with a managed recruitment service to draw on expertise in attraction strategies and national recruitment campaigns, to improve reach in the recruitment market at national level.
- Exploring options to pilot a hub approach, to target recruitment in different areas.

In 2022/23 the Legal Ombudsman will:

- Continue to invest in recruitment, onboarding and training new investigators but do so in a more responsive, nurturing way which will drive lower early attrition and increased productivity at an earlier stage.
- Support line managers who will be leading a changed workforce, where the balance between new and established investigators will be almost 50/50 and bring new leadership challenge and opportunity.
- Learn the lessons from the attrition and exit data, alongside the pay benchmarking research to better understand what is needed for an attractive pay and benefits employee proposition.
- Take the learning from having a remote and a hybrid workforce whilst determining how we best support our people no matter where they work.
- Work with governance partners to remove the barrier to outsourcing elements of casework and allow greater flexibility of approach.
- Develop a more agile approach to deploying people to priority areas of service.
- Develop a wider attraction and retention strategy for the whole business.
- Shift from being a single location business to a more dynamic location strategy including the use of a pilot hub model, learning from the impact of hybrid working and national recruitment.
- Investigate locations where the Legal Ombudsman's terms are competitive and target those areas for potential hub locations.

### **Developing people**

As well as getting the right people in place it is vital that those who already work at the Legal Ombudsman are supported to reach their full potential, with access to development opportunities and progression, as well as being supported to deliver the level of performance which is required.

The Legal Ombudsman's People Strategy will deliver elements which are time-critical to the delivery of an improved service and begin the process of building the right employer offering.

In 2022/23 the Legal Ombudsman will:

- Develop a new Competency and Performance Management Framework that will address variation in performance where necessary but also provide the means to recognise and reward excellence and support employee development and aspiration.
- Review job descriptions as a means of recognising excellent performance and behaviours.
- Identify training needs and skills gaps across the organisation, to inform future development programmes.
- Continue to develop the "Grad Bay" approach so that new operational staff are fully inducted and supported and move to full productivity as early as possible.
- Develop a talent management and succession planning strategy.
- Build on existing employee engagement mechanisms.

### **Addressing performance variation**

There is still too much variation between staff who are performing at the expected level and those who are not. Performance data in 2021/22 has allowed a greater understanding of this split and work is taking place to link tools such as workload management and forecasting which will allow individuals and team leaders to track progress and for the business to map this against further performance trajectories. Reducing these variations is key to driving consistent performance and meeting the forecast as set out in Section Two, which will deliver better outcomes for customers.

In 2022/23 the Legal Ombudsman will:

- Continue to focus on addressing performance variation, supported by the performance management framework set out above.

### ***Priority Two: Deliver improvements to streamline handling of complaints and deliver a more proportionate service focused on early resolution.***

*Priority Two will build on the significant progress made this year in delivering new ways of working and more effective ways to achieve early resolution and seek sustainable transformative change through Scheme Rules review and process change.*

*The benefits from the PAP reduction pilot projects will be mainstreamed and driven through and we will continue to implement other new innovations and improvements.*

*Alongside this the Legal Ombudsman will also consider options to address the backlog through outsourcing.*

*The focus areas will be:*

- *A review of the Scheme Rules.*
- *Early resolution and proportionality.*
- *Demand management.*
- *Outsourcing and partnerships.*
- *Mainstreaming Pre-Assessment Pool pilot projects.*
- *Making the most of new technology.*

*The expected outcomes from this work are:*

- *Minimum decrease in the pre-assessment pool of 1,000 customers.*
- *Revised and implemented Scheme Rules with subsequent process change which, together will deliver a more efficient and proportionate approach to the resolution of complaints with benefits realised as we move into 2023/24.*
- *Redefine the business process to ensure a proportional service which gets to the right decision for consumers and service providers as quickly and effectively as possible.*

The significant interventions at the heart of Plan A Plus fall under this priority area and are:

### **Review of the Scheme Rules**

The Scheme Rules set out the way in which complaints will be dealt with by the Legal Ombudsman. Over time they have constrained the way the organisation can operate and have created inefficiencies. Work has taken place in 2021/22 to identify some key areas where changes to the rules would allow a more efficient approach to the resolution of complaints. Such changes would of course be subject to public consultation, which is expected to take place towards the end of 2021/22 and result in process re-design in 2022/23.

The key areas for review in 2021/22 are:

- Reviewing the scope and application of Scheme Rule 5.7 which provides for circumstances in which an Ombudsman can decide to dismiss a complaint either in full or in part.
- Addressing the high level of demand for investigations to be determined by an Ombudsman decision.
- The application of case fees to incentivise early resolution.

The key areas for review in 2022/23 are:

- Implement Scheme Rule and process changes which will deliver a more efficient approach to the resolution of complaints
- Complete a more wide-ranging and radical review of the Scheme Rules, which will take longer to complete and is likely to lead to further process re-design.
- Evaluate projects undertaken to date to assess whether they have had sufficient impact or further initiatives are required.

### **Early resolution and proportionality**

Proportionality is a means of ensuring that, after an initial review, cases will only be passed for investigation where it appears that there is evidence of both a service failing on the provider's part and a significant detriment to the consumer which warrants redress. It is also a means of ensuring that the cases which are passed for investigation are concluded at the earliest possible opportunity if it transpires that there has been no service failing or detriment to the consumer.

Nearly half of all the cases investigated by the Legal Ombudsman result either in an outcome that the service provided was of a reasonable standard or that the detriment to the consumer was either negligible or non-existent. All of these cases will have waited a significant amount of time in the PAP without any indication as to the likely prospects of success. Once accepted for investigation, the time taken and resource expended in carrying out a full investigation on these cases could be better deployed investigating those cases where there is an obvious service failing, significant detriment or public interest.

Work is already ongoing to identify cases in the PAP where the likely outcome is a no poor service finding so that an ombudsman can consider whether they should be dismissed at that point. Further work is in progress to enable cases that have been accepted for investigation to be concluded at the earliest possible opportunity where

it is evident that the service was of a reasonable standard. Initial indications suggest that around 25% of cases in the PAP, where no outcome has been offered through the first-tier complaint handling process, could be suitable for early closure or dismissal which could provide a significant reduction in the PAP and customer wait times.

Work is also ongoing to define a set of financial thresholds and objective criteria which, if not met, would enable an ombudsman to consider dismissing a case where there is evidence of poor service on the provider's part on the basis of proportionality.

Additionally, a proportion of customers elect not to pursue their complaints through to conclusion or fail to engage with the Legal Ombudsman's processes. Identifying and dealing with those cases as soon as possible, either in the PAP or once accepted for investigation, will enable operational resource to be redeployed to cases where an investigation is needed and will add value.

Given the limitations of the data collected when a case goes into the PAP, to deploy any of the above initiatives each case in the PAP will have to be reviewed. This will require operational resource to be diverted from mainstream work or additional resource to be recruited.

In 2022/23 the Legal Ombudsman will:

- Develop the proportionality criteria for cases with low level detriment / impact and pilot that initiative.
- Consider the viability and potential implications of deploying a proportionality test to all cases that are currently waiting in the PAP.

### **Demand management**

Across the Ombudsman sector, demand management is a tool which is often deployed to enable a scheme to have greater control over the volume of new cases being accepted for assessment and investigation and to ensure that levels of demand can be met with existing resources.

As work progresses to reduce the size of the existing PAP over the remainder of 2021/22 and into 2022/23, consideration will be given to applying an increased level of control over the volume of new cases being added to the PAP on a monthly basis.

To support this initiative a set of flexible criteria will need to be developed to enable the Legal Ombudsman to assess at the earliest possible opportunity whether or not new cases should be added to the PAP. The criteria will need to be structured to ensure that they can be flexed to maintain demand at a sustainable level and complement the existing PAP reduction initiatives. Consideration will need to be given to ensuring that any such criteria do not adversely affect those customers who most need the services of the Legal Ombudsman. They must also enable the Scheme to be able to identify and action low impact - high volume themes and trends in the sector or at a specific service provider.

Currently, the Legal Ombudsman can only decline to investigate a case once it has been accepted as being in jurisdiction. One of the key proposals for changes to the Scheme Rules is the ability to dismiss a complaint before it is accepted – this would mean that cases would not be added to the PAP and the customers' expectations could be properly managed from the outset.

Given historic closure and outcome profiles, it is anticipated that the application of demand management could reduce levels of incoming new cases by around 10-15% and those levels could increase if the thresholds and criteria are flexed.

In 2021/22 this initiative will be piloted under the provisions of the existing Scheme Rules to accurately assess and quantify the impact and implications of this change.

In 2022/23 the Legal Ombudsman will:

- Implement changes to approach, mainstreaming into our process based on an assessment of impact and implications subject to regular review.

### **Outsourcing and partnerships**

In 2022/23 it will be essential that the Legal Ombudsman has the ability to outsource delivery of its services. To do so will require a change to primary legislation. Over the remainder of 2021/22 consideration is being given to the feasibility of outsourcing any aspect of the operational process to a third-party external complaint resolution provider. In doing so consideration would need to be given to how quality and service standards would be maintained and assured. An outsourced service with a specific target for the backlog will be scoped.

In 2022/23 the Legal Ombudsman will:

- Work with others to make this change possible and make sure we are ready to take advantage of this.

### **Mainstreaming Pre-Assessment Pool pilot projects**

In 2021/22 the focus has been on balancing resources between case closures and intervening in the customer queue and supporting early resolution.

In 2022/23 the Legal Ombudsman will:

- Move into business-as-usual projects such as Guided Negotiation and Reasonable Offer Made contributing an expected 600 additional early closures per year (This is slightly lower than the expectations for 2021/22 as the proportion of cases open to this approach will reduce slightly as cases are worked through).
- Nudge theory closure will also add an additional 100 closures per year
- Review and implement the GET Investigator role which is still in the pilot phase, provided it is proved to support performance and productivity.

### **Making the most of new technology**

Innovation work which focuses on how technology is used will continue to be tested in 2022/23 with the aim that the technology will support both the complaints process

and the ability to learn from casework and share this with the wider sector. There will be a specific focus on reshaping the service at the initial enquiry stage of the complaints process to give greater clarity to customers using the Legal Ombudsman's service.

In 2022/23 the Legal Ombudsman will:

- Maximise the use of the Robotic Process Automation deployed in 2021/22 and extend its use to increase automation of manual tasks resulting in staff time savings and improved service to customers.
- Scope improvements in the website and internal IT interfaces to support customers in accessing the service.
- Test the value of other IT solutions and consider whether and how they will support deliver to customers.

***Priority Three: Developing learning and insight mechanisms to increase impact of work and support improvements in the sector for providers and consumers.***

Whilst both the Legal Ombudsman and stakeholders recognise the importance of this work, the greatest proportion of organisational focus will continue to remain on the operational performance of the business. However, Priority Three will build on the progress made this year to build the internal structures to generate learning and insight and the mechanisms to provide feedback to service providers at the point at which it is needed.

*The focus areas will be:*

- *Providing targeted learning and insight for service providers, making better use of the valuable insight we hold.*
- *Increasing the visibility and impact of casework through better use of existing powers to increase transparency and publish findings in the public interest, delivering on our commitment to full transparency and enhanced public reporting.*
- *Using engagement opportunities to demonstrate the impact of the Legal Ombudsman, including the support it provides to 110,00 contacts a year.*
- *Responding to changes in the legal services sector and in the external sector.*

The expected outcomes from priority three work are:

- *Increased reporting of LeO's findings for insight and learning.*
- *Progressing our approach to transparency of investigations.*
- *Active contributions to debates around transparency, quality indicators and the unregulated sector more broadly.*
- *A wider range of engagement points with service providers both during the complaints process and more widely. Working towards more rigorous management of "at risk" providers, appropriate support mechanisms and transparency of investigations.*
- *Sector has a clearer understanding of the business process and how they can best help support early resolution.*

### **Providing targeted learning and insight**

The Legal Ombudsman has already begun to identify how it can better engage with service providers, to provide learning and insight at all stages of the process. This means the opportunity for early advice to support the first-tier process, feedback for those firms who have high volumes of complaints, through to publishing more complaints reports or information on complaints where there is learning or a public interest in doing so.

In 2022/23 the Legal Ombudsman will begin implementation on aspects of this engagement to provide clearer insights into the impact of the scheme and how learning and insights can be shared more widely with the sector.

### **Responding to changes in the sector**

At the same time the legal sector continues to evolve and it is vital that the experience and knowledge of the Legal Ombudsman are represented in discussions about how to respond.

In 2022/23 the Legal Ombudsman will support wider sector work on areas such as transparency of information and redress for the unregulated sector.

## **2. What this means for customers in 2022/23 and 2023/24?**

The significant interventions at the heart of Plan A Plus under Priority Two will reduce the PAP and improve the overall customer experience by reducing both wait time and customer journey time for our customers. With senior level Ombudsman resource deployed to the front end of the business process we can accelerate the delivery of proportionality and demand management and its impact on the PAP backlog. This experienced resource would be deployed to review cases in the PAP and assess, at the earliest possible opportunity, those complaints which can confidently be identified as having no likely prospect of success. Those cases will be processed under Scheme Rule 5.7 which provides a number of situations where the Ombudsman, in his/her opinion, may feel that complaints may be dismissed or discontinued. This would include dismissals on the basis that it would be disproportionate for a full investigation to be carried out given the probable outcome. Senior Ombudsman involvement in this initiative will provide assurance as to the quality of the outcomes and will ensure that all customers have the chance to argue for their case to be fully investigated, thereby ensuring that the interests of the most vulnerable customers are not prejudiced. This approach, whilst resource intensive, will enable new cases to be processed much more quickly.

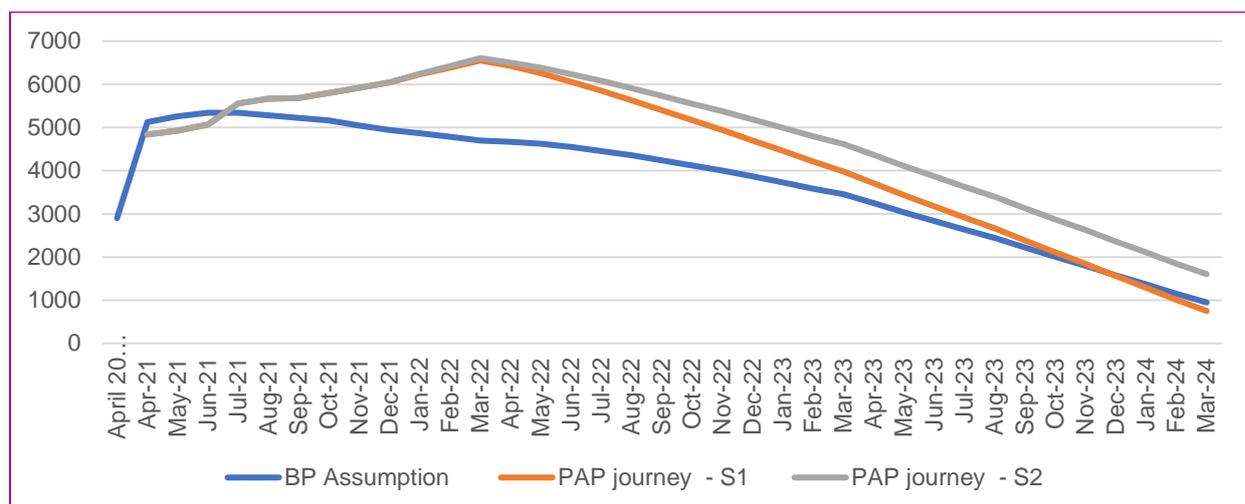
This will reduce the customer journey for a significant proportion of those waiting in the PAP. The application of a proportionality test to these cases could, it is anticipated, reduce the PAP by between 1200 to 1600 cases in 2022/23.

This approach will also be complemented by a focus on managing the level of demand coming into the business. This senior Ombudsman resource will also be deployed to review new cases as they first reach the Legal Ombudsman. This will

combine clear and realistic customer expectation management from the outset and the application of an Ombudsman decision at the earliest opportunity to decide not to accept a complaint for investigation. This will provide scope for levels of forecasted demand to be reduced by up to 10%. This initiative will enhance the impact of the proportionality work on the PAP in 2022/23 and will continue to help reduce the size of the PAP through into 2023/24.

Resource permitting, and subject to the appropriate testing, these initiatives could combine to reduce the PAP by the end of 2023/24 to a figure between 750 and 1600, compared with a current forecast of 2985 without these interventions. Given the direct correlation between the PAP and customer journey times, this will bring with it significant further reductions in the overall customer journey time and improvement in the customer experience. Under current modelling within the existing business process, Year 3 shows a further improvement on low and medium complexity cases by a further 38% for low and 13% for medium. Significantly, this does not include the impact from the proposed changes and ways of working. Early closures, proportionality and demand management which will have a significant effect on low and medium customer journey cases from Year 2 and into Year 3. The data is not yet available to inform a robust model but, with the proposed changes and as we get to a position where the PAP is reduced significantly, we get closer to our existing average times for investigations (the point at which complaints are taken from the PAP until they reach closures). To date over the course of 2021/22 the investigation times for low complexity cases average 91 days, for medium complexity 141 days and for high complexity 211 days. As the PAP approaches a more manageable level the Legal Ombudsman will get closer to this level of sustainable acceptable performance.

### Overall PAP Journey



## 2. What this means for the budget

The 2021/22 Business Plan set out a multi-year approach to improvement and to the budget as the OLC sought to invest in new investigative teams over those two years. It included a provisional budget increase for 2022/23 to £15,024,352.

In putting together this budget, amidst significant inflationary and capacity pressures, the OLC has asked itself some difficult questions:

- Should the budget be maintained?
- Is there a risk of not being able to spend this next year because the right people cannot be recruited?
- What are the implications of asking for a reduced budget? How would this impact recruitment plans?
- How is the sector likely to respond?

We have actively considered and assessed, first of all, the possibility of no increase, maintaining the budget for 2021/22 into 2022/23 and not seeking the year two planned additional increase of 3.8% as set out in the 2021/22 Business Plan. This has been ruled out primarily on the basis that this planned increase is intended to pay for the full year effect of new investigative teams recruited and trained in 2021/22. Our assessment has also taken account of the significant inflationary pressures faced and the lack of scope for further efficiency savings.

In essence, without this planned increase, LeO would not realise the benefits of the investment in 2021/22 and would not see the full effect of the new investigators increasing to productivity into 2022/23. Our assumptions and forecast trajectory for customers would be adjusted significantly downwards with increased instability and impact on our ability to continue to develop and implement new initiatives and further changes to ways of working.

### *Proposed budget for 2022/23: Two options*

Two budget options have been actively considered and are presented for stakeholder comment:

**Option one:** Increase the budget for 2022/23 as planned in line with what was set out in the 2021/22 Business Plan – a total increase of **£553,310**.

**Option two:** Increase the budget by a marginal further 1.3% to **accelerate the delivery of radical options** – a total increase of **£741,406**.

### **Option One: Increase the budget for 2022/23 by 3.8% in line with the budget set out in the 2021/22 Business Plan**

This option sees a proposed budget for 2022/23 of £15,024,352 – maintaining the Budget ask at the levels originally planned for 2022/23 (Year 2) and outlined in the 2021/22 Business Plan (3.8%). This forms part of the previously shared and agreed two-year approach to stability, recovery and improvement.

This planned increase will pay for the full year effect of new investigative teams recruited and trained in 2021/22 with new investigators increasing to

productivity over the course of 2021/22 and into 2022/23. In essence, this will allow the Legal Ombudsman to realise the benefits of new investigative teams through to 2023/24.

The budget request asks for funding for what we consider to be business critical to operational performance. We plan to add some operations leadership and management capacity to help continue focus on performance variation and to help manage the support needs of a less experienced investigative cadre. We will fund this from within the planned budget ask through savings generated elsewhere.

We plan to invest modestly in HR and Communications, but these will also be met within the planned budget and through savings.

We will absorb significant inflationary pressures as a result of the recently announced increase in National Insurance, adding £95,000 increase in staff costs, with additional inflationary pressures of £40,000 in IT costs.

The Legal Ombudsman recognises the pressure this places on the funding from the sector and a number of areas have been assessed to mitigate these increases as much as possible. This includes:

- £62,000 reduction in rent due to adjustment.
- £50,000 reduced depreciation requirement from longer asset life policy.
- £45,000 reduction in marketing and consultancy.
- £23,000 reduction in wider staff costs.

This totals a £180,000 reduction in budget requirement.

In addition, reflecting on the current retention and attraction challenges, and on the basis of more robust staff forecasting, potential overall attrition rates and consequent gaps in operations and corporate staffing levels have been better assessed.

This amounts to further £209,000 reduction in budget requirement to offset the total budget increase.

**The combined effect of these changes is a £553,311 increased budget requirement against the budget for this year as indicated in the 2021/22 Business Plan.**

**This budget would deliver the forecast trajectory in closures and the PAP set out in Section 2 but would not deliver the higher forecast trajectory outlined in Section 3 on page 32 and which includes investment in proportionality and demand management measures.**

#### **What this does not take account of**

There are several key elements which it has not yet been possible to forecast with accuracy:

*Removal of public sector pay freeze.* Following the announcement in the Chancellor's Autumn Budget regarding the public sector pay freeze guidance is being sought on the implications for the Legal Ombudsman. A pay award of 1% would cost £120k, and 2% would cost £240k. Not offering an inflationary pay award in 2022/23 could counter strategies for retention and recruitment.

*Performance related increments.* Consideration is being given to performance related increments for investigators to aid attraction and retention. This would be closely tied to performance, and so should be self-financing (fewer, higher paid investigators closing more cases).

Any additional or wider inflationary pressures – not least on staff costs – which requires further consideration. There are pressures within this budget which will be challenging and will reduce scope for capacity and resilience building in key support areas.

Business Area	2020/21 Out-turn	2021/22 Budget	2022/23 Budget (in 21/22 BP)	2022/23 Budget	2023/24 Budget
Operational delivery		£8,783,999	£9,114,310	£9,111,193	£9,357,440
Policy and Impact Work		£227,146	£227,146	£296,882	£376,882
Corporate Functions and business support		£2,350,734	£2,450,734	£2,524,115	£2,524,115
<b>Total staff salary expenditure</b>	<b>£10,193,000</b>	<b>£11,361,880</b>	<b>£11,792,191</b>	<b>£11,932,190</b>	<b>£12,258,437</b>
IT & Telecoms	£1,293,000	£1,379,534	£1,379,534	£1,419,534	£1,419,534
Premises & Facilities	£744,000	£772,023	£772,023	£572,023	£572,023
Other staff expenditure	£236,000	£205,012	£218,012	£195,012	£195,012
Depreciation	£291,000	£353,480	£443,480	£531,480	£531,480
Other costs	£407,000	£399,113	£419,113	£374,113	£374,113
<b>Total non-salary expenditure</b>	<b>£2,971,000</b>	<b>£3,109,162</b>	<b>£3,232,162</b>	<b>£3,092,162</b>	<b>£3,092,162</b>
<b>Total revenue expenditure</b>	<b>£13,164,000</b>	<b>£14,471,042</b>	<b>£15,024,352</b>	<b>£15,024,352</b>	<b>£15,350,599</b>
Impact of potential salary increase					
1% salary increase				£118,000	
<b>Total revenue expenditure</b>				<b>£15,142,352</b>	
2% salary increase				£237,000	
<b>Total revenue expenditure</b>				<b>£15,261,352</b>	

\* salary increase provided for indicative effect

### **Option two: Increase the budget by a marginal further 1.3% to accelerate the delivery of radical options – a total increase of £741,406.**

This option would be based on Option one but with the addition of a 1.3% budget increase of £188,000. This would allow investment in senior Ombudsman experience placed at the front end of our process to apply proportionality and demand management at a faster rate. This would deliver direct early Ombudsman closures to both existing complaints in the PAP and new complaints received. This will result in significant reduction on the forecast PAP over 2022/23 and 20/24 with an estimated

reduction between 33% and 39% by the end of year 2 and between 65% and 81% by the end of year 3 against the current forecasts.

**The combined effect of these changes would be a £741,406 increased budget requirement against the budget for this year.**

**This budget would deliver the forecast trajectory on closures and the PAP set out in Section 3 delivering substantial reduction of the PAP over a quicker timeframe through investment in proportionality and demand management measures. This can't be achieved without that investment without a transfer of existing resource which would significantly reduce closures and negate the impact.**

Business area	2020/21 Out-turn	2021/22 Budget	2022/23 Budget (in 21/22 BP)	2022/23 Budget Proposal	2023/24 Budget
Operational delivery		£8,783,999	£9,114,310	£9,299,289	£9,545,535
Policy and Impact Work		£227,146	£227,146	£296,882	£376,882
Corporate Functions and business support		£2,350,734	£2,450,734	£2,524,115	£2,524,115
<b>Total staff salary expenditure</b>	<b>£10,193,000</b>	<b>£11,361,880</b>	<b>£11,792,191</b>	<b>£12,120,286</b>	<b>£12,446,532</b>
IT & Telecoms	£1,293,000	£1,379,534	£1,379,534	£1,419,534	£1,419,534
Premises & Facilities	£744,000	£772,023	£772,023	£572,023	£572,023
Other staff expenditure	£236,000	£205,012	£218,012	£195,012	£195,012
depreciation	£291,000	£353,480	£443,480	£531,480	£531,480
other costs	£407,000	£399,113	£419,113	£374,113	£374,113
<b>Total non-salary expenditure</b>	<b>£2,971,000</b>	<b>£3,109,162</b>	<b>£3,232,162</b>	<b>£3,092,162</b>	<b>£3,092,162</b>
<b>Total revenue expenditure</b>	<b>£13,164,000</b>	<b>£14,471,042</b>	<b>£15,024,352</b>	<b>£15,212,448</b>	<b>£15,538,694</b>
Impact of potential salary increase					
1% salary increase				£120,000	
<b>Total revenue expenditure</b>				<b>£15,332,448</b>	
2% salary increase				£240,000	
<b>Total revenue expenditure</b>				<b>£15,452,448</b>	

\* salary increase provided for indicative effect

### *Confidence in ability to spend the budget*

The Legal Ombudsman is forecast to underspend by £659,000 in 2021/22. The main contributory factor to this has been the significant shortage of investigator FTE compared to those budgeted for in the Business Plan as set out above. In particular, LeO started the year with a significant shortage (14 FTE) of investigators. We have also seen a less than 50% return on targeted recruitment numbers in September and November. Essentially, from the outset, we have been recruiting to catch up, meet attrition and upscale with new additional teams - all whilst meeting the challenges of a candidates' labour market.

This may, of course, lead to questions from stakeholders around the risk of not being able to spend next year's budget if the Legal Ombudsman cannot recruit the right people. The Legal Ombudsman is confident, however, that the actions set out above in Section 3 mean that a full complement of investigators will be in place and ensure full budget spend next year. This includes the expansion of our recruitment options by moving to a national recruitment campaign and engagement of a managed

recruitment service, allied with moves to pilot a Hub approach and attraction strategies.

We have also undertaken a full review of our forecasting model and are testing this with a Performance & Quality subset of the OLC Board. This includes a full review of assumptions and strengthening of our forecasting modelling. We will be forecasting in 2022/23 on a real time basis with greater control and workforce planning to anticipate and replace attrition, minimising the opportunity for a future underspend.

## SECTION FOUR: RESPONDING TO THE CONSULTATION

The OLC is seeking feedback from stakeholders on the 2022/23 Business Plan and Budget and at a critical time for the effective delivery of the Legal Ombudsman scheme. Whilst this consultation is for 2022/23, this document also makes it clear that 2021/22 is not over yet. Much is already in the pipeline and will determine the starting point of delivery in 2022/23.

What is clear is that change is necessary and this document shows the willingness of the Legal Ombudsman and the OLC to be bold and work at pace. This consultation offers an opportunity to hear directly from stakeholders on the feasibility and their appetite for some of these more challenging options.

Comments on all aspects of this document are welcomed, as well as any evidence supporting your views. Specific questions being asked are:

- 1) *This document is being shared with you following a year of enhanced public accountability. What are your confidence levels in the Legal Ombudsman scheme compared to this time last year?*
- 2) *Specificity is key for the credibility of the Business Plan but it is also important to avoid 'information overload'. What would you like to see more information or detail on in the final Business Plan issued in the New Year?*
- 3) *The Legal Ombudsman must avoid over-promising and under-delivering. To this end this document seeks to openly set out the different confidence levels in the impact of what is being proposed. Is this a helpful approach to adopt?*
- 4) *Historically there has been an emphasis on plans to tackle the size of the pre-assessment pool but there are better and more customer-centred ways of measuring sustainable acceptable performance. Should the Legal Ombudsman place more emphasis on individual customer experience, the value for money the service provides, the wider impact of the scheme or other measures?*
- 5) *What are your views about the proposed budget for 22/23? If you disagree with the proposed budget, what elements of the Business Plan should be changed in order to address this?*
- 6) *Are there further measures that LeO should consider implementing in order to improve its performance?*

### Further information

If you have any questions concerning this publication or how to engage with us about our strategic planning, please email [support@legalombudsman.org.uk](mailto:support@legalombudsman.org.uk).

If you require further information the Legal Ombudsman publishes a full range of [performance data](#) on its website.

This set of data was developed and agreed with both the Legal Services Board and the Ministry of Justice and provides a comprehensive overview of all areas of work from the overall customer journey time and satisfaction with the service provided, the number of cases in the Pre-Assessment Pool and quarterly turnover. Since August this information has been openly shared with all stakeholders, with a focus on the overall performance summary. This will continue throughout 2021/22 and into 2022/23 and feedback will be gathered from stakeholders to ensure the information in the dataset is effective and useful in bringing an understanding of progress and the changes being made by the Legal Ombudsman.

The KPI targets for next year will be set later in the business year once the performance forecasts and budget for the year are finalised.

### **Timing**

The consultation runs from Friday 5 November to **12pm Monday 13 December 2021**. There will be opportunities for stakeholders to comment and contribute in person at events being held in early November.

### **Contact details**

If possible, please send your responses electronically although hard copy responses by post are also welcome.

*Email:* [consultations@legalombudsman.org.uk](mailto:consultations@legalombudsman.org.uk)

*Post:* Legal Ombudsman, PO Box 6803, Wolverhampton, WV1 9WF