

The Association of Consumer Support Organisations (ACSO) response to the Legal Ombudsman Service business plan and budget consultation 2022/23

The Association of Consumer Support Organisations (ACSO) welcomes the opportunity to respond to the Legal Ombudsman Service (LeO) [consultation](#) on its business plan and budget for 2022-23.

ACSO represents the interests of consumers in the civil justice system and the reputable range of organisations who are united in providing the highest standards of service in support of those consumers. Its role is to engage with policymakers, regulators, industry and the media to ensure there is a properly functioning, competitive and sustainable justice system for all consumers.

Q1. 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?

As recognised in the consultation document, LeO is behind the trajectory of performance improvement and recovery that it set for itself.¹ The focus on improving the efficiency and effectiveness of the scheme is to be commended, yet there remain many significant challenges that the service needs to overcome, including long waiting times, an increase in the backlog of complaints and staff attrition.

ACSO is a member of the LeO Advisory Group, established in April 2021 to challenge LeO's ways of working and provide advice on ways to reduce the backlog and improve operational performance. As such, we have been provided with in-depth information on LeO's recovery plan and the progress made. In particular, the range of initiatives that LeO has investigated and/or implemented to improve its service is notable. This includes the pilots on early resolution of cases in the pre-assessment pool (PAP), robotic process automation (RPA), the canvassing of thoughts from staff working at the ombudsman service, and the review of the Scheme Rules (including with the Legal Services Board (LSB)). On this latter point, we look forward to the upcoming LeO consultation on a review of the Scheme Rules.

We commend LeO's awareness of the importance of stakeholder engagement, as evidenced by the formation of the Advisory Group. However, as we have raised at previous meetings of the group, many of the members are from the ombudsman service or regulatory bodies. This suggests a gap in the stakeholders with whom LeO is engaging with. Moreover, although a number of legal-services providers are likely to respond to this consultation, many will not. It was for this reason that ACSO canvassed its members for feedback on how they believe LeO could be improved, and we welcome the opportunity to provide further evidence and/or insight to LeO as required.²

¹ Legal Ombudsman Service (LeO), [Consultation: Business plan 2022-23](#), 5 November 2021, p.4.

² ACSO, *The Association of Consumer Support Organisations (ACSO) feedback from members on the efficiency of the Legal Ombudsman Service*, 29 November 2021.

Overall, despite the substantial challenges that remain, we are confident that LeO is moving in the right direction. Many of the performance strategies it has implemented will take effect over the long term, such as the significant investment in recruitment and training new investigators. We hope to see the benefits of LeO's innovation work and wider improvement initiatives come to fruition over the course of the 2022/23 financial year. As stated by the LSB, "LeO is not losing sight of the need to make improvements across the organisation, a factor that further reinforces the sustainability of progress".³

Q2. 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?

The level of detail provided in the consultation document is sufficient. LeO has provided enough detail without causing 'information overload'. However, as a member of the LeO Advisory Group we are familiar with the contents of the document and therefore may not be best placed to state whether it is overly detailed for an organisation/individual which is not.

Q3. The Legal Ombudsman must avoid over-promising and under-delivering. To this end the 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?

Yes. The approach is helpful.

Q4. Historically there has been an emphasis on plans to tackle the size of the pre-assessment pool but there are better and more consumer-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?

Earlier this year, ACSO sought feedback from its members on how they believe LeO could be improved. All respondents were claimant law firms with large market shares in personal injury and other areas of law.⁴ The size of the PAP was cited by all respondents as a leading cause of frustration for consumers and legal-service providers. As outlined in the consultation document, at the end of September the number of cases in the PAP stood at 5,677 against the LeO business plan forecast of 5,225.⁵ This represents a 9 per cent increase on the trajectory of performance improvement that LeO set for itself, as well as an increase of 128 per cent from March 2020 where 2,491 people were waiting for an investigation.⁶ Moreover, LeO expects there to remain a substantial backlog by the end of 2023/24, albeit at a "more manageable level" and with reduced consumer wait times.⁷

³ Legal Services Board (LSB), [Letter to Dr Helen Philips: CEO report paper \(21\)](#), 25 May 2021, p.1.

⁴ ACSO, *The Association of Consumer Support Organisations (ACSO) feedback from members on the efficiency of the Legal Ombudsman Service*, 29 November 2021.

⁵ Legal Ombudsman Service (LeO), [Consultation: Business plan 2022-23](#), 5 November 2021, p.9.

⁶ Legal Ombudsman (LeO), [Business plan and budget consultation 2021/22](#), 14 November 2020, p.4.

⁷ Legal Ombudsman (LeO), [Business plan and budget consultation 2021/22](#), 14 November 2020, p.14.

Reducing the size of the PAP and the waiting times for those consumers within it must remain the priority for LeO. The minimum six-month wait for an investigation to start is likely to frustrate consumers and will serve to undermine public confidence in legal services and their regulation. Although the wait times are published on the LeO website, the information is not easy to find, and therefore does not aid the management of consumer expectations.⁸

Improving the customer experience should be a priority for LeO, and we note the implementation of an organisation-wide initiative to improve customer service.⁹ Nevertheless, LeO currently has a Trustpilot rating of one star and, albeit from a total of only 165 reviews, 96 per cent of consumers have rated the service as 'bad'.¹⁰ Although consumers are likely to be unhappy if LeO does not uphold their complaints, the majority of reviews cite delays to the progression of their complaints as a leading cause of dissatisfaction. As such, the improvement of the individual customer experience is interconnected with the need for LeO to reduce the PAP and wait times.

In regard to value for money, LeO has a unit cost (the total cost of the ombudsman scheme divided by the total number of cases resolved during the year) of £2,798 in 2020/21, an increase of 45 per cent from £1,927 in 2019/20.¹¹ In addition, the total cost of the scheme has risen from £12.30million in 2019/20 to £13.16million in 2020/21, whilst the total number of cases resolved during the year has fallen 26 per cent from 6,384 cases to 4,704 cases.¹² LeO's unit cost is higher than comparable schemes. For example, the Financial Ombudsman Service (FOS) had a total unit cost of £1,040 in 2021/21, albeit this is expected to rise to £1,103 in 2022/23.¹³ There are good reasons why legal complaints are costly to resolve, such as complexity and owing to the likelihood of more ombudsman decisions being required. However, LeO's high unit cost has long been recognised as a concern, not least due to the implications for its case fee policy and ambitions to widen its jurisdiction, including from the Competition and Markets Authority (CMA), the Legal Services Consumer Panel (LSCP) and Professor Stephen Mayson.¹⁴

The causes of the rise in the unit cost per case are multifaceted and have undoubtedly been exacerbated by the Covid-19 pandemic and the measures put in place to mitigate its spread. The average time taken for LeO to resolve a low-complexity case rose from 182 days in April 2020 to 285 days in March 2021 and 303 days by November 2021.¹⁵ Moreover, demand for

⁸ Legal Ombudsman Service (LeO), [Annual report and accounts for the year ending 31 March 2021, 15 July 2021](#), p.39.

⁹ Legal Ombudsman Service (LeO), [Consultation: Business plan 2022-23](#), 5 November 2021, p.7.

¹⁰ Trustpilot, [Legal Ombudsman](#), accessed on 19 October 2021.

¹¹ Legal Ombudsman Service (LeO), [Annual report and accounts for the year ending 31 March 2021, 15 July 2021](#), p.18.

¹² Legal Ombudsman Service (LeO), [Annual report and accounts for the year ending 31 March 2021, 15 July 2021](#), p.18.

¹³ Financial Ombudsman Service (FOS), [Annual report and accounts for the year ended 31 March 2021](#), 28 October 2021, p..52.

¹⁴ See, Legal Services Consumer Panel (LSCP), [Benchmarking the Legal Ombudsman](#), November 2013, p.3.

¹⁵ Legal Ombudsman Service (LeO), [Annual report and accounts for the year ending 31 March 2021, 15 July 2021](#), p.16; and, LeO, [Business plan and budget consultation 2021/22](#), 14 November 2020, p.21.

the LeO service has increased since 2019/20, with an additional 23 per cent of cases added to the PAP in 2020/21 compared to 2019/20.¹⁶

It is important that LeO continues to consider how best to reduce the unit cost, albeit not at the expense of making savings on standards-raising work. Given the substantial difference between the unit cost of LeO and other ombudsman services, we recommend LeO continues to engage with other ombudsman services to share learnings and ensure a cost-effective, stable and timely process can be provided.

Q5. 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?

Given the ongoing Covid-19 crisis and the resultant economic uncertainty, we do not consider it an appropriate time for LeO to be granted an increased budget of 1.3 per cent on top of the planned budget for 2022/23. Although we appreciate that LeO maybe able to “accelerate the delivery of radical options”, the service has so far fallen short of the trajectory of performance improvement and recovery that it set for itself in the 2021/22 financial year. Indeed, when the Legal Services Board (LSB) approved the Office for Legal Complaints (OLC) budget for 2021/22 of £14,471,042, it did so under the condition that should the expected benefits not materialise, then the LSB would be justified in calling on the government to “pursue alternative arrangements to deliver effective consumer redress in the sector”.¹⁷

LeO currently receives the majority of its funding through an industry levy to approved regulators and a case fee, paid by the law firm which has a consumer dispute, which stands at £400.¹⁸ As ACSO outlined in its response to LeO’s consultation on its business plan and budget for 2021/22, there is a risk that the increased budget will lead to an increase in the OLC levy, which will be passed on to consumers by legal service providers charging higher fees.¹⁹ If a further budgetary increase is granted, LeO will need to ensure that consumers do not suffer detriment through a concurrent rise in the cost of legal services. This is particularly pressing given the financial hardship many individuals are experiencing as a result of the pandemic, as well as the perception held by many consumers that they are unable to afford legal services which results in rising unmet legal need.²⁰

Q6. Are there further measures that LeO should consider implementing in order to improve its performance?

In regard to staff training, we are aware of the challenges LeO has faced, alongside many other organisations, in training/inducting investigators remotely. As the prospect of another

¹⁶ Legal Ombudsman Service (LeO), [Consultation: Business plan 2022-23](#), 5 November 2021, p.20-21.

¹⁷ Legal Services Board (LSB), [Letter to Elisabeth Davies, Chair of the Office for Legal Complaints: Approval of OLC Budget for 2021/22](#), 19 March 2021, p.1.

¹⁸ Competition and Markets Authority (CMA), [Review of the legal services market study in England and Wales: an assessment of the implementation and impact of the CMA’s market study recommendations](#), 17 December 2020, p. 129.

¹⁹ The Bar Council, [Bar Council news update](#), 19 February 2020, p.1.

²⁰ According to the Legal Services Board (LSB), 3.6 million adults in England and Wales have an unmet legal need every year involving a dispute. LSB, [The State of Legal Services 2020](#), 25 November 2020, p.23.

national lockdown has not been ruled out, LeO must consider fully how best to provide support to new employees and train them effectively. For example, the April 2020 cohort of recruits joined LeO 18 days after the first lockdown. As LeO has never trained and/or inducted investigators remotely, the prohibition period for this cohort commenced in October 2020. This 6-month delay is likely to have caused frustration for new recruits and makes it difficult for them to integrate into the internal culture of the organisation. These factors are likely to contribute to higher staff-attrition rates.

Investment in innovative ways to improve service delivery is likely to be the most effective means of reducing the backlog of complaints, and we comment LeO's progress to date on reviewing new ways of working. Through our technology and innovation work stream, ACSO engages with a broad range of stakeholders to understand how technological innovation is affecting consumers and altering the landscape of the civil justice system. Moreover, in December 2021, we announced our associate partnership with Insurtech UK, the trade association for the community of insurtech startups in the UK. It is likely that much of the work we have conducted will aid LeO in working towards Priority Two: *to identify innovation opportunities that speed up the complaints process*. Again, we would welcome the opportunity to provide any additional advice and/or evidence as required.

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For further information, please contact:

Rachel Cairnes

Policy and Public Affairs Adviser

The Association of Consumer Support Organisations (ACSO)

rachel.cairnes@acso.org.uk