



The Law Society

## **The Law Society's response to the Legal Ombudsman's Business Plan**

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## **The Law Society's response to the Legal Ombudsman's consultation on their Business Plan**

The Law Society is grateful for the opportunity to comment on the Legal Ombudsman's (LeO) draft business plan. We welcome the Business Plan as it gives approved regulators, regulated community and consumers of legal services a clear idea of how LeO intends to operate in its first full year of running.

As the largest approved regulator, we hope that our own experience of creating and maintaining a complaints handling function may be of some use to LeO, although we recognise that the Ombudsman scheme will be very different from the scheme Legal Complaints Service (LCS) have run. We share LeO's ambition for complaints in the legal sector to be resolved in an effective and efficient manner.

### **The role of LeO**

We understand the need for LeO to have appropriate contingency plans to react quickly if any of the risks which are identified occur.

While nobody can be sure how many complaints LeO will receive in 2011 we have previously observed that it is necessary for LeO management to make an educated guess on this matter otherwise there is no solid base for allocating resources. If the modelling carried out by LeO is not correct it would be helpful to understand why, so the model can be improved in future. It will be interesting to observe if the publicity surrounding the creation of LeO has led to a significant increase in cases.

The assumption that few cases will end up being decided at Ombudsman level is presumably based on experience in other schemes. If this prediction is incorrect there will be resource consequences for the management of cases. The Law Society believes that LeO's policy on case fees is not likely to be as effective as it could be in encouraging lawyers to settle matters before adjudication. We would like LeO to re-examine this issue within the next year or so.

### **Business processes**

If LeO is to achieve its overall strategic ambition it must ensure that communications from all levels of the organisation are appropriate. The Society is pleased that the strategic plan recognises that an important part of LeO's assessment centre staff role

is to ensure that those who are using LeO have their expectations managed. The chances of having a successful outcome are enhanced if everyone has a realistic expectation of what the possibilities are.

The ambition for business processes to avoid the need for becoming embroiled in endless exchanges between the parties is sound, as long as thoroughness is not sacrificed for brevity. We also welcome the greater use of telephone and e-mail to communicate with lawyers and their clients, as it is often easier to resolve complaints informally by such routes. However, if LeO does require that paper files are submitted then it should have the appropriate mechanisms for doing so e.g. a DX address. Similarly, if LeO expects scanned documents to be submitted it should have sufficient capacity to receive such data transfers.

LeO will have a role to play in helping to educate the profession on appropriate complaints handling. The better the legal profession manages first-stage complaints handling, the less dispute resolution work LeO will have to undertake. This would also resolve matters for the customer as soon as possible, and help to contain the LeO's running costs. The Law Society will itself continue with its efforts to help improve complaints handling, and will be happy to work with LeO on this.

### **Challenges over the next three years**

The Law Society recognises that the introduction of alternative business structures (ABS) may have some impact the types of complaints that LeO receives. It is important that the Legal Ombudsman, which is funded by the legal profession, does not stretch its remit to resolve complaints arising from work which is outside the scope of legal regulation. Not only is LeO unlikely to have the expertise to resolve such complaints, it is also unfair for the legal profession to subsidise the handling of complaints unconnected to their profession.

We note the LeO's comments on the extension of their jurisdiction to encompass unregulated services providers such as will writers. We do not believe that it is appropriate for regulated professionals to pay towards the cost of resolving complaints generated by unregulated providers.

### **Strategic objectives**

From a high-level perspective it is difficult to argue with LeO's four main strategic objectives.

- Process all enquiries and complaints in a thoughtful, fair and effective way, offering a high quality, value for money services.
- Continuously improve our processes and the resulting outcomes for our customers.
- Build credibility and openly share best practice with each other, our customers and external stakeholders.
- Achieve organisational excellence.

It is positive that the Strategic Plan emphasises that LeO wants to run a first-class Ombudsman service and build honest, open and professional relationships with complainants, individual lawyers and the profession more generally. A good way for LeO to achieve this is for there to be a mature and open dialogue between themselves, regulators and professional bodies. LeO needs to be aware of how its quality of service is being perceived by all key stakeholder groups.

## **Key Performance Indicators**

We recognise the difficulties of setting performance indicators so early on in the lifetime of LeO. In general we agree with the indicators chosen. We would hope that unit cost can be broken down further to reflect the cost attributable to cases which are resolved informally and those that require an Ombudsman's decision. We believe that such figures will help the LeO in developing their fee structure.

## **Business plan performance for 2011/12**

As the Business Plan points out, due to the fact that 2011 – 12 will be LeO first full year of operation they have not yet accumulated a significant stock of data about their performance. Both the strategic and business plan is ambitious documents which set achievable goals. LeO will have to carefully monitor their performance over this year in order to assess that they are meeting their targets. It is encouraging that the business plan does acknowledge this by stating that the major activity of LeOs first year will be to review and reflect on their first few months of operation, and implement any changes necessary to refine and reform their processes.

It is not just LeO who has to adapt to a new way of operating in legal complaints handling. The different branches of the legal profession need to be informed of how LeO is operating in order to help them learn about how complaints are expected to be dealt with. Clearly communicating LeO's way of operating will help lawyers to bring their complaints handling service in line with the Ombudsman's expectations and reduce the need for many potential complaints to use LeO's service. The 'Guide to Good Complaints Handling' has been a useful starting point. We would hope that, as more cases are dealt with, LeO will be able to provide more information on its approach to resolving complaints and in particular what it considers to be an appropriate level of compensation.

We welcome the commitment to provide feedback to lawyers on what LeO have seen in terms of complaints and what lawyers might do to improve complaints handling. LeO will have a wealth of information which we are keen to. The Law Society has already been in discussion with LeO regarding access to this information and we would hope to work with LeO on this in the future, to help solicitors to handle complaints effectively.

## **Finance**

We were relieved that the initial modelling of the OLC set-up costs were within the allotted budget. We are encouraged that the LeO is confident that they will not need to go above the expected amount. The full cost of the LeO will be recovered from the legal profession from a combination of a levy on approved regulators and fees charged to lawyers for dealing with complaints. The current economic climate has had the impact on many law firms of rising costs and lower incomes. It would not be easy for the profession to find extra resources. It is inevitable that in most circumstances lawyers will fund any extra amount they are required to pay for complaints handling through fees which are ultimately charged to clients.

The Law Society, working closely with LCS management was able to achieve significant cost savings in LCS in its last two or three years of operation. It will be interesting to see the results of the proposed system to track the unit costs of LeO's work by reporting the annual cost of the organisation averaged according to the

number of cases accepted for resolution. This could help LeO to drive down unit costs in the future and improve business processes.