

Consultation draft: December 2010

Legal Ombudsman equality and human rights

LEGAL
OMBUDSMAN

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We welcome your views

The Legal Ombudsman (LeO) is committed to valuing diversity and promoting equality throughout the organisation, and to ensuring that our policies, procedures and practices are fair, objective, transparent and free from unlawful discrimination.

We welcome the greater legislative protection which has been enacted in the form of the Equality Act 2010. However, as well as implementing our legislative duties, we view the equality and diversity agenda as an integral part of how we operate as an employer and service provider. Our approach to equality will also include a focus on human rights.

We would like to invite comments and suggestions from both the general public and stakeholder groups with an interest in the issues we address in this document. The consultation period during which you can submit your views runs until the end of February 2011 (for the exact timetable, see Appendix 2).

The questions we would especially like responses to can be found both within the main body of the document and in a summary list shown in Appendix 1.

We hope you will be able to share your thoughts on these important issues. Please send your responses, marked for the attention of Baljit Kaur, to:

consultations@legalombudsman.org.uk by 28 February 2011.

SECTION ONE

Our commitment to equality and diversity

We are committed to valuing diversity and promoting equality throughout the organisation, and to ensuring that our policies, procedures and practices are fair, objective, transparent and free from unlawful discrimination.

We welcome the greater legislative protection which has been enacted in the form of the Equality Act 2010. However, as well as implementing our legislative duties, we view the equality and diversity agenda as an integral part of how the Legal Ombudsman (LeO) operates as an employer and a service provider. Our approach to equality will also include a focus on human rights.

We recognise that there are groups that face barriers and disadvantage in society. We will actively ensure that equality, diversity and human rights are embedded into the business and the work of our staff. To this end, we will understand the needs of our consumers and use this knowledge to shape our services.

We will strive to have a representative workforce that has a wide range of expertise and experience from a variety of backgrounds that will enable us to provide excellent service delivery and thus enhanced confidence in LeO. We aim to create a safe and inclusive environment for our workforce, at the heart of which will be our shared value commitments to equality, diversity and human rights.

Our approach to equality will drive improvements in equality of access to our service and the diversity of our workforce. We aspire to become an organisation which is recognised for its good practice in this area.

SECTION TWO

Introduction to LeO

Parliament wanted to simplify the legal service complaints system and make sure consumers had access to an independent expert to resolve complaints. The Legal Ombudsmen has been set up by the Office for Legal Complaints (our Board) under the Legal Services Act 2007. We are an independent non departmental public body that investigates and resolves complaints by consumers of legal services in England and Wales. We offer an independent and impartial service. We are able to look into complaints about legal services, for example: buying and selling a house or property; divorce; wills; personal injury; intellectual property; criminal law; civil litigation; immigration and employment issues.

Our vision

“Everyone can access legal services in which they can have confidence.”

Our vision is explicit that service users can have confidence that we will deal with them fairly and that our decision making will be transparent. LeO has mechanisms in place that ensure equality of opportunity, provide accessible services and treat its customers with dignity and respect by understanding their diverse needs.

LeO is committed to ensuring that dignity at work and mutual respect are enshrined in all its working practices and the ways in which its staff behave both towards each other, potential employees and its business partners.

Overall, this will be achieved by actively challenging all forms of prejudice and unlawful discrimination, along with ensuring that our business priorities encompass an inclusive approach to equalities and diversity.

Our mission and values

Our task is to run an **independent** Ombudsman scheme that will resolve complaints about lawyers in a **fair** and **effective** way, where we take a **shrewd** and decisive approach to tackling complex issues and give **open** focused feedback to help drive improvements to legal services.

SECTION THREE

The statutory duty to promote equality

The law requires public authorities to have due regard to promote equality and eliminate discrimination in carrying out their functions and activities. These legal obligations (known as „general duties“) require public authorities to adopt a proactive approach to mainstreaming equality in all their decisions and activities. The summarised list of these general duties is given below:

- Eliminate unlawful discrimination and harassment.
- Promote equality of opportunity.
- Take steps to take account of disabled persons“ disabilities, even where that means treating disabled people more favourably than other people.
- Promote positive attitudes towards disabled people.
- Promote good relations between people from different racial groups.
- Promote equality of opportunity between men and women.
- Encourage participation by disabled persons in public life.

LeO is bound by equality legislation to comply with the three general duties in relation to race, disability and gender¹ and the new public duty enshrined within the Equality Act 2010. These duties include the requirement to produce and put into place equality priorities and objectives outlining what we will do to promote equality in respect of race, disability, gender, sexual orientation, transgender, age, and religion or belief.

The general duties are supported by „specific duties“. These are the steps that we are obliged to undertake to demonstrate how we are integrating equality and meeting the general statutory duties. The regulations require us as a public authority to demonstrate the methods we will employ to fulfill the general and specific duties.

¹ The term „gender“ refers to the wider social roles and relationships which includes men, women and transgender people

The statutory duty not to breach human rights

The Human Rights Act 1998 came into force on 2 October 2000, and applies to all public bodies within the UK. Human rights (as described in the Act) have implications for the provision of public services and functions. Accordingly, LeO has a duty to "Refrain from acting in a way which is incompatible with a Convention right".

We will be handling complaints with human rights implications. Human rights will therefore be built into every section of our equality priorities and objectives. We will encourage and support the development of an organisation in which there is respect for, and protection of, each individual's human rights. This means going beyond anti-discrimination to encompass fairness of treatment, dignity, respect and access to all the fundamental rights which enable people to play their part in society.

Our equality priorities and objectives aim to create a climate of respect for human rights through promoting understanding and demonstrating the value of human rights law in the work that we do. This approach applies to everyone – staff and service users alike – and recognises human rights as values we share with one another.

3.1 We would welcome your views on the proposed integration of human rights within our equality priorities and objectives

SECTION FOUR

Our approach to equality and human rights

We recognise that the communities we serve are constantly changing, diverse and have different experiences, aspirations and needs. We also acknowledge that experiences vary between groups, individuals and localities. We know that some groups are at particular and increased risk of exclusion and/or discrimination. These fall into seven equality groups

and include the characteristics covered in the Equality Act 2010 as follows:

Equality group	People and aspects included - relevant characteristics and issues for public bodies
Gender	Men, women; married people; parenting; caring; flexible working; maternity" breastfeeding; paternity, and equal pay concerns.
Religion or belief	People who have a religious belief; people who are atheist or agnostic; people who have a philosophical belief which affects their view of the world.
Age	Young, old and middle aged people.
Disability	Disabled people with physical, mental, sensory, visible or hidden impairments that have a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.
Ethnicity	People from the various racial groups as per census categories, including: White British, Chinese, British Asians, Travelers, Gypsies, Roma, those who are of Caribbean origin, people of mixed heritage, White Irish communities, and people of nationalities outside Britain who reside here.
Sexual orientation	Heterosexual and bisexual men and women, gay men and lesbians.
Transgender	People who intend to or are currently undergoing gender reassignment or have already undergone gender reassignment.

We also recognise that individuals may experience disadvantage as a result of a breach of their human rights (as prescribed by the Human Rights Act 1998). The Human Rights Act prohibits discrimination on wider grounds, not just the groups that are covered by existing equalities legislation.

Human Rights	Some disadvantaged groups fall outside the equality groups listed above. We will seek to address the needs of these particular individuals, such as people on low incomes, asylum seekers, migrants and settled communities, on the basis that everyone has „human rights“.
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Our commitment to equality and human rights will be demonstrated by LeO proactively taking concerted action to help build a "fairer society" - by ensuring equal access to our services for our diverse customers, including respondents, and fair employment for all our staff and potential employees.

Our equality and human rights obligations should be central to everything we do and integrated in all our policies, strategies and procedures. We will support and enable our staff to use the structures and systems to systematically identify the impact of our policies and programmes on the various equality groups. A consistent approach to embedding equality and human rights in everything we do will enable us to achieve an inclusive culture which recognises and values the diversity of our workforce and the consumers we serve. This is central to the delivery of effective, efficient and appropriate service delivery.

SECTION FIVE

Our equality priorities and objectives

The following equality priorities and objectives will enable us to identify any barriers that may exist in the provision of service delivery and employment.

1. Identify organisational functions and policies that are relevant to the general statutory duties for equality impact assessments

LeO has developed a list of its functions and policies that may have an impact on equality and prioritised them for the undertaking of an equality impact assessment (EqIA).

An equality impact assessment is a systematic way of thoroughly assessing and consulting on the effects that a proposed service, function or policy is likely to have on our staff, the community and partners. The EqIA process also extends to monitoring the actual effects of the policy, function or service once it is put into practice or is functioning. The overall aim is to ensure that, in the application of its processes and procedures, LeO is having due regard to the elimination of unlawful discrimination and to the promotion of equality.

The main purpose of an equality impact assessment is therefore to prevent the possibility that a proposed policy, service or function could affect certain groups unfavorably. The assessment should enable identification of actions which would remove or mitigate any unfavorable

effects or, even where the effects may be positive, to ensure we do not miss opportunities for better delivery of outcomes that will promote equality.

5.1 Do you agree with our approach to equality impact assessment? If not, can you suggest what we might do differently?

2. Engagement and consultation on our policies and functions

As a non departmental public body we have a legal obligation to consult when we are developing key policies and functions. This is reiterated in the Legal Services Act 2007, which calls us to not only consult but make sure we are transparent in our decision making by publishing the views we receive and how we respond to the feedback we receive from people. We have tried to consult with a broad range of people to date and recognise that this can be a challenge, as much of what we have discussed to date can be perceived to be technical or legal. Part of our aim is to break through these misconceptions and to make sure we hear from a broad range of people – and not just those interested in how legal services are regulated. Our consultation strategy will embed our commitment to consulting with all relevant parties.

5.2 What specific suggestions do you have to help us improve the ways in which we consult with, and learn from, stakeholder groups?

1. Monitoring the impact of our policies and functions

We are committed to the principles of monitoring as this informs us of the effectiveness of our policies, operations and organisational culture, and whether these affect particular groups disproportionately.

LeO will be gathering robust data and analyse it in order to better inform our policy development and implementation decisions. We will do this via five approaches:

- i) **collecting data on employment** – systems are in place to monitor whether there is a negative or adverse impact on equality groups as a result of our employment policies.

- ii) **collecting data on service delivery** - we collect information on an on-going basis through our service systems, engagement and consultation activities, surveys and analysis of complaints. Analysing this data will enable us to better understand our consumer base, their expectations, experiences and requirements.
- iii) **equality impact assessments** - all of our policies, assessed as relevant to the general statutory duty, will be monitored for the possibility of adverse impacts.
- iv) **engaging with key stakeholders** - we have consulted with a number of external bodies and asked them to review our plans and identify any barriers to service provision. We have also consulted with practitioners directly, as well as their representative bodies through discussion forums.
- v) **external research** – we use research to inform our knowledge base.

This approach will ensure that we are informed of gaps in service provision and any positive or negative impacts on the various equality groups. In turn, this will enable us to design and deliver services that are sensitive to the needs and requirements of individuals and are flexible to adapt to their needs.

5.3 Do you have any comments on our approach to impact monitoring?

5.4 We welcome examples of good practice from elsewhere in relation to collecting equality data – can you help? For example, have we identified the most important sources of evidence relating to equality? Can you suggest better methods or sources?

1. Publishing the results of assessments, consultations and monitoring information

To meet our duties we must make arrangements to publish the results of our impact assessments, consultation activities and monitoring information. Publishing our results is evidence that we are meeting the requirements of the specific duties of monitoring. Assessing and consulting on the effects of our policies and practices, and reporting on these, will give our stakeholders confidence that we are maintaining best practice.

The results will be widely and openly published via the website and made available in accessible formats, where requested.

5.5 Do you have any general comments on our proposals to publish the results of our assessment and monitoring activities?

5.6 What level of detail would you like to see published?

2. Public access to information and services that LeO provides

LeO must ensure that the public are made aware of its services and any relevant information about the organisation. Our aim is to be more open and accountable. We will help people to better understand who we are, what we do and how we carry out our functions.

We have already worked hard to find appropriate channels to make sure that people, particularly consumers with a potential legal complaint, are aware of our services. We will continue to promote a culture of transparency.

The Freedom of Information Act 2000 gives any individual or body the right of access to information held by LeO. This includes both a right to be told whether the information exists, as well as the right to receive it.

Furthermore, all information can be converted into accessible formats (translations, Minicom, Braille, audio tapes, easy read) where required.

5.7 Do you have any specific ideas on how we could improve awareness of, and access to, our services?

1. The employment duty

Our intention is that our workforce is broadly reflective of the demographics of the West Midlands, where we are based. For senior positions, we will aim to be broadly reflective of national demographics. We will continually need to understand and respond to changes in the population, the labour market and society as a whole, with the aim of finding out what demographic change means for the labour market and the way people work.

We have systems in place to effectively monitor our employment practices by ethnicity, disability and gender. It is our intention to monitor our employment practices for all seven equality groups in order to identify the possibility of adverse impact. This will enable us to identify any barriers that equality groups face to employment and put in place the necessary empowerment and positive action schemes to provide equality of opportunity for all.

5.8 Do you have any general comments on our approach to employment data monitoring?

5.9 Can you suggest any models of good practice in employment monitoring and profiling taken from other bodies?

5.10 What benchmarks might we use to gauge our effectiveness as an employer who is committed to equal career and development opportunities?

2. Training staff in connection with our duties

We have a commitment to the development and provision of an effective communication and training programme on equality and human rights for all staff. A detailed programme for the delivery of training has been developed. We have already developed and implemented a diversity awareness training programme for staff as part of their induction and equality impact assessment workshops have taken place.

5.11 Can you suggest any models of good and more innovative practice in the delivery of equality and human rights training?

3. Influencing the legal profession

As well as ensuring that individuals who may have suffered from poor service have access to redress, we also have to provide a good quality of service to the legal profession. In order to help the profession improve its standard of service, we have a duty to provide feedback and advice. In fulfilling this duty, we intend to pay close attention to any issues of equality, diversity and human rights which we identify through our work. In the coming year, we will focus our efforts on accumulating the data, knowledge and expertise which will enable us to feed back to the profession the common causes of customer service failures and suggest areas for improvement in legal practice.

External research informs us, for example, that:

- individuals from some groups (ethnic minority, disabled, gypsies, under 25s, etc.) face a lack of knowledge and/or confidence regarding legal rights, and fear of discrimination within the legal system;
- although minority ethnic people are more likely to have a „justiciable“ problem than white people, their take-up of legal services tends to be lower;
- women and ethnic minorities, in particular, are underrepresented in employment terms in the legal profession.

We have systems in place, such as the analysis of telephone calls, case management reviews, complaints analysis, etc., all of which help us understand the equality, diversity and human rights implications for the legal profession. In our advisory capacity, we will inform the respective legal professionals of our findings with a view that they will improve their practices in service provision. In addition, we will compile information on the emerging themes and trends regarding equality and human rights, as part of our annual reporting mechanisms.

5.12 What do you think our role should be in encouraging the legal profession to adopt and achieve higher standards of equality of opportunity in their practice?

5.13 What is the best way of communicating with the legal profession about what we are learning?

1. Procurement

LeO is committed to promoting fair and equal opportunities for suppliers and service providers, big and small, allowing everyone the chance to grow and achieve their full potential and contribute to LeO's success, where our requirement to demonstrate value for money and where public sector rules allow us to do so.

Ensuring that our contracting opportunities are accessible to all types of businesses, for example, those owned by people from ethnic minority communities, women and disabled people, means that every supplier who can offer real benefits and value-for-money has a chance to compete and secure business with us. We believe encouraging our suppliers to promote equality and diversity in their own workforces helps ensure that contractors and the Legal Ombudsman benefit from diverse skills and talents.

By stipulating relevant equality-related criteria and equality contract conditions, where relevant and proportionate, we will demonstrate our commitment to promote equality more widely.

We will conduct our procurement activity in a transparent way that the public can judge us on the outcomes that we deliver. The public will be able to see for themselves, through regular publication of data about our procurement activity, contracts awarded and whether we have improved equality outcomes through our supply chain.

5.14 In your experience, what would improve the chances of small, ethnic and other minority businesses winning competitive contracts to supply LeO?

SECTION SIX

Delivering and monitoring our priorities and objectives

Our Board has the overall responsibility for setting the strategic direction of the organisation and has appointed a board champion to lead on equality.

The responsibility for the effective delivery of our equality and human rights priorities and objectives rests with the Accounting Officer, who is responsible for:

- overseeing the development of governance arrangements;
- ensuring arrangements are in place for compliance throughout the organisation;
- ensuring the Board is briefed on equality, diversity and human rights matters in order that it has due regard to them when making decisions.

A programme board is set up to provide strategic oversight of the implementation of our equality priorities and objectives.

The Ombudsman with specific responsibility for equality will advise the board on the strategic direction for equality and human rights, in addition to advising the Accounting Officer on the operational delivery of the priorities and objectives. The Equality and Diversity Manager will have the remit for supporting staff throughout the organisation to deliver its objectives.

The Senior Management Team will actively promote equality of opportunity and good community relations between groups, both within the workforce and in service provision. It will incorporate equality and diversity as part of its business planning processes, setting of objectives, performance targets and establishment of monitoring systems in order to demonstrate that our statutory duties have been mainstreamed into our annual operating plans.

An internal equalities champions group will promote the implementation of equality and diversity policy and practice across our departments, services and key strategic partners.

The Human Resources team is responsible for developing fair employment policy (which includes equal pay) to eliminate inequality and unlawful discrimination in the workplace.

Managers are required to:

- Ensure the impact of their policy area, function or project promotes equality of opportunity and is socially inclusive and equitable.
- Assure objectives and targets remain on course and are delivered to the required standard.
- Manage risks and issues in relation to targets and projects.

Staff are required to promote equality and diversity through their work and relationships with consumers, colleagues and other stakeholders. Our suppliers and contractors must promote equality and diversity in their own workforces and service delivery, in addition to subscribing to our values.

SECTION SEVEN

Review

We will review progress against our equality and human rights objectives on a quarterly basis. A formal report of progress will be included in our annual report.

SECTION EIGHT

Consulting on the equality and human rights priorities and objectives

LeO is keen to involve staff, consumers, the legal profession, advice sector, and voluntary and community groups in our consultation process. We will consult on the priorities and objectives from December 2010 to February 2011 and will be informed by the consultation feedback when reviewing and revising these priorities and objectives.

The equality and human rights priorities and objectives will be published on LeO's website.

8.1 Are there any other ways you might want to contribute to future updates to these priorities and objectives?

Appendix1: Summary of questions

General questions

Now that you have had a chance to read through our draft policy statement:

G1 Do you agree with our overall approach to equality and human rights? Do you think we have missed anything?

G2 Is it clear what we are trying to achieve? Which areas, if any, do you believe need further clarification?

G3 Do you have any other thoughts on ways of ensuring our accountability, accessibility and responsiveness to equality groups?

G4 In principle, would you or your organisation be willing to be contacted after the consultation is complete to discuss your responses?

G5 Do you have any other comments you wish to make?

Summary of specific questions

SECTION THREE

The statutory duty not to breach human rights

3.1 We would welcome your views on the proposed integration of human rights within our equality priorities and objectives

SECTION FIVE

Our equality priorities and objectives

1. Identify organisational functions and policies that are relevant to the general statutory duties for equality impact assessments

5.1 Do you agree with our approach to equality impact assessment? If not, can suggest what we might do differently.

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4. Publishing the results of assessments, consultations and monitoring information

5.5 Do you have any general comments on our proposals to publish the results of our assessment and monitoring activities?

5.6 What level of detail would you like to see published?

5. Public access to information and services that LeO provides

5.7 Do you have any specific ideas on how we could improve awareness of, and access to, our services?

6. The employment duty

5.8 Do you have any general comments on our approach to employment data monitoring?

5.9 Can you suggest any models of good practice in employment monitoring and profiling taken from other bodies?

5.10 What benchmarks might we use to gauge our effectiveness as an employer who is committed to equal career and development opportunities?

7. Training staff in connection with our duties

5.11 Can you suggest any models of good and more innovative practice in the delivery of equality and human rights training?

8. Influencing the legal profession

5.12 What do you think our role should be in encouraging the legal profession to adopt and achieve higher standards of equality of opportunity in their practice?

5.13 What is the best way of communicating with the legal profession about what we are learning?

9. Procurement

5.14 In your experience, what would improve the chances of small, ethnic and other minority businesses winning competitive contracts to supply LeO?

SECTION EIGHT

Consulting on the equality and human rights priorities and objectives

8.1 Are there any other ways you might want to contribute to future updates to these priorities and objectives?

We hope you will be able to share your thoughts on these important issues. Please send your responses, marked for the attention of Baljit Kaur, to:

consultations@legalombudsman.org.uk by 28 February 2011.

Appendix 2: Timeline

We are working to the following consultation timetable:

Timeline	Engagement
December 2010	Publication of consultation draft
January and February 2011	Meetings with stakeholders about the thrust of our proposals
Monday 28 February 2011	Deadline for responses
March 2011	Publication of responses received
April 2011	Publication of the final document

Please send your responses, marked for the attention of Baljit Kaur, to:

consultations@legalombudsman.org.uk by 28 February 2011.