



The Law Society

**Legal Ombudsman consultation on equality and human
rights**

The Law Society's response

March 2011

SUPPORTING
solicitors

The Law Society's response to Legal Ombudsman's consultation on equality and human rights

This response has been prepared by the Law Society, the representative body for over 140,000 solicitors qualified in England and Wales, working at home and around the world. The Law Society negotiates on behalf of the profession and lobbies regulators, government and others.

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

We agree with your overall approach to equality and human rights, as it allows The Legal Ombudsman (LeO) to take into account socio-economic factors which would otherwise be difficult due to socio-economic disadvantage not being protected within Equalities legislation. It is important that LeO understand the socio-economic factors and trends as we know that this has a big impact on the profession in terms of legal practitioners, the upward mobility of career development, areas of the law to practice in and other factors. Little is known however, about the knock on effect this has on the services received by clients. By utilising this framework it is our hope that LeO will make progress in understanding the relevant factors and trends.

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

The document is quite clear in what it strives to achieve. It is essential that LeO meets its Equality Duties and we believe that this document will help them in doing so. We recognise that LeO is a new organisation and has been set up on a challenging timescale. In future, LeO may wish to consider going beyond the minimum levels of compliance. Much more detail is required around the engagement and consultation, and specifically positive action. We are not sure how LeO will utilise the newer positive action provisions and therefore would welcome clarification in this area. Procurement is another area where more thinking is required.

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

LeO should engage directly with stakeholders to help ensure that its equality and diversity framework and actions are implemented effectively. LeO will need to be transparent about its equality and diversity work. LeO should also continue to provide easily understood publications utilising a mixture of text and diagram styles, possibly in Easy Read/Plain English formats, to ensure the publication of data is as accessible as possible.

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

Yes.

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

We would have welcomed more detail within the consultation on how LeO would propose to work in partnership with the Solicitors Regulation Authority (SRA) and the Law Society & other approved regulators to further work around equality and diversity data, especially in terms of collecting diversity data from clients and solicitors alike.

We appreciate that although the needs of a majority of customers will be met by the usual processes and policies LeO will have in place to deliver its services, there will always be some customers whose needs mean that LeO will need to deliver an accessible service tailored to the diverse needs of its users.

Ensuring accessibility will include building in flexibility to systems and processes which cater for specific needs. This will be of significant importance when

- handling complaints from individuals who may have mental health issues (our experience shows us that this is a key challenge when handling complaints)
- when auditing website accessibility, translating and providing documents in alternative formats and deciding where and
- when to advertise and communicate information about LeO.

Consideration needs to be given to provision for face to face liaison with customers where this is a necessity, for example because of needs arising from disability.

Having efficient mechanisms in place to collect and monitor data from customers about their needs is a fundamental step towards identifying those needs. However, it is not clear how LeO will deliver on this fundamental area in respect of the wider accessibility issues raised above or whether it considers this to be an important objective.

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

Yes, we agree with the outlined approach regarding impact assessment. We believe that LeO should consider the available research before trying to undertake significant impact assessments. This will help LeO to create more realistic impact assessments and to avoid making value-based judgements. It will be important to engage with the stakeholders, such as approved regulators and representative bodies, to ensure that information gathered by these organisations is used effectively by LeO.

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

LeO should use market research data and input into the work that the Legal Services Board (LSB) and SRA are carrying out to capture data on legal service users. Working with local networks, specialist organisations and groups, and using business networks and social networking media, will help LeO access and target communities effectively. We suggest LeO utilises a variety of the possible communication channels to reach its consumers.

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

The approach suggested seems reasonable except as it relates to procurement, where we are concerned about the proposed 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?

There are many reports available from the SRA and The Law Society, and also historical research conducted by the LSC, in relation to various diversity issues within the legal sector which LeO should be aware of. There are some gaps in equality and diversity data related to client experience. Organisations, such as the SRA and LSB, are currently looking at gathering data in this area. LeO should work with these organisations to further their understanding of legal service users. There are also many publicly available reports which LeO can draw from. LeO should not 'reinvent the wheel' and should work closely with The Law Society and SRA to ensure that joint opportunities for gathering data and focussing on diversity can be utilised to their full capacity.

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?

To make data accessible to a wide audience, LeO should limit the amount of information in prose form. The average reading age of a UK adult is between 8-11 years old, therefore any published results should be succinct. We would suggest the following are published:

- Recommendations of relevant policy and impact assessment
- Actions to be taken
- Identified individual and/or department
- Deadline for completion

We note that LeO has tried to make as much of its documentation as possible reader friendly. We would urge LeO to continue with this approach and ensure that all published documents are fully accessible. The Easy Read format is a good format for publishing reports on equality data and can be easily understood by most people.

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

Solicitors already inform clients of their right to take a complaint to LeO at the beginning of a retainer and, if there is a complaint, as part of the complaints handling process. Utilising social media, direct marketing to disadvantaged groups and carefully targeted awareness campaigns around diversity in the legal sector may create greater awareness.

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

No. The proposals seem reasonable.

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

The Law Society can provide a number of reports on equality and diversity to LeO which may help in monitoring and profiling.

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

The following benchmarks are worth exploring:

- UKCAE (United Kingdom Council for Access and Equality) Pathway
- C2E (Committed to Diversity)
- Stonewall WEI
- Opportunity Now
- Race for Opportunity
- EFD Disability Benchmark
- Investors in Diversity

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

Yes. We would suggest using a mix of blended learning i.e. relearning, face-to-face classroom style teaching, short E&D workshops exploring specific aspects of working at LeO, events focussing on diversity which provide entertainment and learning about different cultures. We have found this is an effective method to train our staff within the Legal Complaints Service.

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?

The SRA places a duty on solicitors not to discriminate. They also require solicitors to put in place a policy to prevent discrimination and harassment and to promote equality and diversity. Solicitors are under a duty to take all reasonable steps to make sure those within a firm are aware of and comply with this policy. In the future, one of the core principles applying to solicitors will be to:

'run your business-or carry out your role in the business in a way that encourages equality of opportunity and respect for diversity'

Any failure to comply with the rules (or in future the principle) is a matter of misconduct and should be referred to the SRA. We believe that LeO's main role is to adjudicate on complaints relating to service and we do not see this being a matter for

LeO. LeO should work with the SRA when it has concerns over a solicitor complying. Therefore it will need to clearly define how it will seek to work with the SRA when this occurs. It is for the Law Society, as the representative body, to encourage its members to excel in all aspects of practice, including those related to equality and diversity. LeO should work in partnership with the Law Society to encourage wider understanding of diversity through joint campaigns and partnership working.

In previous consultations, we have welcomed the suggestions from LeO that they will publish more data on the type of complaints they receive. We believe that publication of information such as case studies and greater information on the causes of complaints would help solicitors improve their complaints handling in all areas. This should include complaints related to equality and diversity.

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

LeO should utilise the regulators and membership bodies to ensure it is communicating effectively. We have a range of communication vehicles such as newsletters, opinion pieces, research publications, case studies and Gazette interviews to communicate with the profession as a whole, which LeO may be able to use.

The Law Society is committed to helping solicitors pursue excellence in client service including complaints handling. We would welcome the opportunity to work with the Legal Ombudsman to build on the Law Society initiatives in this area.

We believe publication of information on websites, as well as regular newsletters are effective means of communicating to the profession.

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

We recognise the LeO is a new organisation and we welcome the work that they have done in this area so far. We do have concerns about LeO's plans in regard to procurement. We believe that more effective monitoring will be needed to ensure its Tier 1 suppliers employ a diverse sub-contractor/supply chain of their own and promote opportunities on a regular basis to BME and other minority business networks. Ensuring that tender opportunities are widely advertised in a variety of media is helpful. However, LeO may wish to consider other actions such as E&D vetting at the beginning of its procurement processes. This will enable it to establish a Tier 1 Supply base with a diverse supply chain of its own which will provide the established benefits of effective supplier diversity policy.

8:1 Are there any other ways you might want to contribute to future updates to these priorities and objectives?

Yes. We would be pleased to have our equality and diversity unit and Committee involved in the future.