

OLC Consultation on the Draft Scheme Rules 15 September – 8 December 2009

Further responses from ROCAS (Reform of Complaints Against Solicitors)

Re Question 1, ROCAS asks that under 4.2 a) the 8 week period for in-house complaints handling should not be extended.

Re Question 5.

- a) Under 5.1 Will the complainant have help with setting out their complaint from a trained non-legal investigator? The complainant would feel confident that such an investigator was independent and impartial. Getting to the root of the problem is the key to fair resolutions and, in cases where the complaint is not serious, to speedy ones.
- b) Under 5.17 & 18 It is understood that the aim will be to resolve complaints through conciliation. How will informal resolution/conciliation be fair to the complainant when in most cases the provider of legal services has the advantage of knowledge about the complainant, more knowledge of the law, and more experience of making a case? Conciliation could leave the complainant accepting a solution that is not to his/her advantage. It is very different to arbitration where there is an arbitrator who makes a decision. It is also different to having a complaint investigated where the ombudsman will make a decision.
- c) How will the conciliators be recruited and who will train them?
- d) Will it be possible for arbitration (where the arbitrator makes a decision) to be used, as opposed to conciliation?
- e) Will the complainant be given a choice of conciliation, arbitration or investigation and told how they differ?
- f) What code/set of principles will be used to determine an investigation?

As general questions, ROCAS asks

- a) Once the OLC has been in operation for say 6 months, will it be possible for previous complaints to be considered in cases where the complainant has documentary evidence and injustice has been suffered because the complaint has never been investigated by any of the complaint handling bodies?
- b) Have consumers been informed of the current consultation ? Has there been any publicity for it apart from posting it on the website? Has there been any consultation in different parts of the Country?

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2 December 2009