



Association of Women Solicitors

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*Essential for Success*

## LEGAL OMBUDSMAN CONSULTATION PUBLISHING DECISIONS: STAGE THREE

For the avoidance of doubt we refer to our Response to the initial Consultation Paper in December 2010 and confirm that we remain of the view that identification is overall NOT appropriate. Subject to that we respond to the Stage 3 Consultation as follows:-

Question 1. Do you have any comments or suggestions about Stage 3 of our approach?

Response

Yes. We agree that further information should be collected and considered before the final decision on publishing names of firms is taken.

Question 2

What data do you think it would be most useful for us to track?

Response

The maximum. It is stated on page 33 of Appendix 3 of the April 2011 Paper that there is “no robust evidence” that firms will refuse instructions from individuals likely or perceived to be likely to complain, often the weakest and most vulnerable members of society. The issue raises concerns of adverse impact under both

the Human Rights and Equality legislation, for example, and the Ombudsman's duty to promote the interests of ALL consumers. We therefore suggest that some research on this is done and considered before the decision is taken.

### Question 3

Have we proposed to track the right criteria?

### Response

Yes but additional data needs to be collected – area of law, size of firm, type of firm, funding arrangement, diversity profile of the firm, solicitor or other fee earner and client. Page 33 of Appendix 3 also suggests that there is “no robust evidence” of any Equality & Diversity impact and the data tracking could be used to collect this information.

Do you have any other suggestions for criteria that could be used to trigger publication?

### Response

If the tracking is to include firms with more than 3 complaints investigated within 12 months but with the complaint then withdrawn or not upheld it would seem logical also to include in the tracking firms with more than 3 complaints settled informally within 12 months. Both lots of data would be for the research only as we agree strongly that if publication does take place only cases that have been formally resolved and a remedy ordered should be included.

Question 4 Once we have tracked our data what do you think should be the basis of our eventual decision about whether we adopt a policy of identifying individual law firms?

Response

Balancing the statutory regulatory objectives of protecting the public interest and the interests of consumers with encouraging a strong and diverse legal profession. It is not in the public interest for the weakest and most vulnerable individuals to be unable to access legal advice or for the legal profession to become less diverse and representative of the population it serves.

Question 5 Do you have any comments about the timetable we have suggested?

Response

Yes. 9 months is too short. We suggest 18 months to allow for the collection of the full data we have suggested and to see the impact of the next lot of changes to the provision of legal services.

## WORKSHOP SLIDES

### Publishing Standards

Comment

When being notified in advance of publication firms should be invited to submit a short context for publication alongside the notification indicating the perspective - size of firm, overall complaints record, nature of work/complaint, attempts to resolve informally, whether an apology was offered.

Firms identified as demonstrating “good” practice in resolving a complaint must consent to publication.

Which cases should we include?

Comment

Cases that have been informally resolved – No

Cases that have resulted in a formal Ombudsman's decision but no remedy - No

Cases where a remedy has been awarded -Yes

Criteria : Volume & Public Risk

How should we identify which cases to publish?

3 cases with remedies awarded within 12 months?

Comment

Yes but subject to our comments above about context.

Exceptionally high level of complaints/ exceptionally severe degree of service failure?

Comment

We refer to the discussion at the Workshop as to what would constitute “exceptional” and the constitution of the entity that would decide whether that definition had been reached. Firms should be invited to make representations before the decision is taken and be invited to submit a context afterwards.

Implementation - What practical things would the Legal Ombudsman need to do to ensure that the policy was implemented in a fair and effective way?

Comment

- (i) Allow firms to submit representations to be considered prior to the decision to publish
- (ii) Allow firms to submit a context for simultaneous publication as stated above
- (iii) “Errant” firms to receive a Warning after, say, two remedies awarded within 6 months.
- (iv) In respect of every Complaint published Diversity Monitoring of the Firm, the solicitor or other fee earner and the client under all the categories of the Equality Act 2010. The data collected should then be published annually and any adverse Equality & Diversity impact noted and acted upon.

Law Reform & Research Committee  
Association of Women Solicitors  
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[www.womensolicitors.org.uk](http://www.womensolicitors.org.uk)

## **About the Association of Women Solicitors**

**The Association of Women Solicitors was established in 1923 a year after the first woman was admitted to the Solicitors' Roll. It is a recognised group of the Law Society. It has a current membership of around 18000. The Association's aim is to be an essential national network promoting the potential and success of every woman Solicitor at all stages of her career. It offers support and advice and represents the diverse interests of all women solicitors. It provides a range of educational and pastoral care services as well as an excellent opportunity for women to network with others both within and outside the profession.**

