



**Horizon Scan- December 2023**

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| <b>Meeting</b>  | OLC Board                             | <b>For Information<br/>Paper No. 130.9</b> |
| <b>Date of meeting</b>  | 14 December 2023                      |  |
| <b>Title</b>  | <b>Horizon Scan- December 2023</b>    |  |
| <b>Sponsor</b>  | Steve Pearson- Deputy Chief Ombudsman |  |
| <b>Status</b>   | <b>OFFICIAL</b>                       |  |
| <b>Executive summary</b>  |                                       |  |
| The Board are asked to note the contents of the horizon scanning paper. |                                       |  |
| <b>Recommendation / action required</b>                                 |                                       |  |
| Board is asked to <b>note</b> the update and analysis provided          |                                       |  |
| <b>Equality Diversity and Inclusion</b>                                 |                                       |  |
| <b>EDI implications</b>   | <b>No</b>                             |  |
| N/A   |                                       |  |
| <b>Freedom of Information Act 2000 (Fol)</b>                            |                                       |  |
| <b>Paragraph reference</b>  | <b>Fol exemption and summary</b>      |  |
| <i>Insert details</i>   | N/A                                   |  |

# Horizon Scan- December 2023

## 1. Overview

| Issue  | Impact | This will affect...                 | Likelihood (1-5) | Demand  |
|--|--------|-------------------------------------|------------------|---|
| Axiom Ince   | Medium | Complaint volumes                   | 2                |  |
| Justice Select Committee- regulation of legal services | Low    | Future of legal services regulation | 3                |  |

## 2. Thematic Issues and news

### Axiom Ince

In October, the Solicitors Regulation Authority intervened into the firm Axiom Ince, who were suspected of misusing significant amounts of client money. The intervention was on the grounds of suspected dishonesty and breaches of the SRA Solicitors Accounts Rules resulting in an account shortage estimated to be around £64 million.

The firm and were also referred to the relevant law enforcement agencies, and the Serious Fraud Office has since made several arrests.

The significant shortfall in the client account has brought into question the ability of the SRA's compensation fund to compensate those affected by the Axiom Ince's misappropriation of funds. The compensation fund is a discretionary fund of last resort that can pay out up to £2 million where a solicitor has stolen or not accounted for client money. Given the £64 million shortfall, and the compensation fund holding £30 million in reserves, a number of questions have been asked about the ability of the compensation fund to deal the number of claims that could be directed to it.

The SRA are also signposting clients to the Legal Ombudsman (LeO) who want to raise a complaint about the standard of service provided by Axiom Ince. LeO has worked closely with the SRA to agree an approach to communicating with clients about the most appropriate avenue for them to take based on the details of their case. Information has been shared by the SRA on its website to ensure clarity for customers about whether their concerns should be directed to LeO; in most cases, at this stage, customers' queries should instead be directed to the appointed intervention agents and, if necessary, claims made to the SRA's compensation fund.

The external affairs team and ombudsman colleagues are actively monitoring for consumer enquires and will keep in touch with the Legal Services Board and SRA about further developments.

### **Justice Select Committee- regulation of legal services**

On 28 November and 5 December, the House of Commons Justice Select Committee held two evidence sessions with professional bodies and regulators about the regulation of legal services. This was the first time the Committee had examined the topic since June 2016.

Representatives from the Bar Council, Bar Standards Board, CILEX (Chartered Institute of Legal Executives), CILEx Regulation, The Law Society, Solicitors Regulation Authority (SRA) and Legal Services Board all answered questions from MPs.

The sessions focused on areas such as performance of the regulators, the professional bodies' relationships with the regulators, the legal and institutional framework that underpins regulation, the role of regulation in supporting access to justice, how regulation helps improve the service provided to consumers of legal services and the overall health of the professions.

The main question asked by Sir Bob Neil, as Chairman of the Committee, was whether those giving evidence considered the Legal Services Act 2007 (LSA) to still be fit for purpose. There were varying responses that focused on different elements which the LSA didn't cover given it was being drafted nearly two decades ago, but with most agreeing that it had delivered improvements to the delivery and regulation of legal services.

The Committee also focused on the on-going discussions about the future of CILEx Regulation and whether there was a justifiable need for members of CILEX to be regulated by the Solicitors Regulation Authority (SRA). Representatives from CILEX, CILEx Regulation, the SRA and the Law Society all gave responses which supported or strongly rejected the benefit of transferring regulation.

LeO were not part of these evidence sessions, nor were service complaints or the organisation discussed. We will, however, continue to monitor any future next steps for legal services, which may emerge as a result of the evidence provided by those involved.

## **Consultation responses and publications**

### **LSB consultation on first tier complaints**

As referenced in October's Horizon Scan paper, the Legal Services Board had issued a consultation on first tier complaint in the sector and revisions to the requirements and guidance it sets out for regulators in their approach to regulating first tier complaints handling. LeO responded to the consultation on 17 November.

Overall, LeO welcomed the focus being placed on first tier complaints handling and the LSB's overall policy objective of achieving a step-change improvement in how effectively complaints are dealt with across the legal services sector. There is clear alignment between the LSB's intentions, including reinforcing the significance of learning and improvement, and

## Horizon Scan- December 2023

the future ambition and strategic focus the Office for Legal Complaints (OLC) has outlined for the LeO as part of its draft 2024-27 Strategy.

However, the draft requirements, guidance and Statement of Policy did not define a role for LeO and it was therefore felt that the requirement to have regard to LeO's insight could be strengthened. This would recognise LeO's role more clearly and set out firmer requirements for regulators to collaborate with LeO and have regard to LeO's insight and role in supporting good first tier complaints handling.

Whilst LeO supported the strengthening of the requirements, associated guidance and a new Statement of Policy, the consultation response also reflected on the need to go 'one step further' and look at ensuring clarity and consistency around the specific standards and best practice expected in complaint handling. The response reflected that *"without such clarity on what good looks like, our view is that there remains a risk of inconsistency and differing (potentially conflicting) approaches to implementing this framework and defining what good looks like in practice across regulated communities."*

Within its response, LeO welcomed the opportunity to work in collaboration with the LSB, regulators and others from across the sector to use its unique position in the sector to help develop any principles, standards, and procedures that may emerge from defining best practice, and to enhance and align its own wider support for the profession through insight, guidance, training and other forms of support.

The LSB is holding a stakeholder meeting in February 2024 to discuss how the sector can best support a culture change in the handling of first tier complaints, and how to ensure that legal businesses are equipped with the skills and confidence they need in order to deliver the best possible complaints resolution for legal service users. The Chief Ombudsman will be attending this meeting and will represent the views of the LeO and how it can support the work as it develops.