

<i>Meeting</i>	OLC Board	<i>Agenda Item No.</i>	13
		<i>Paper No.</i>	113.10
<i>Date of meeting</i>	31 March 2021	<i>Time required</i>	10 minutes

<i>Title</i>	Horizon Scanning – March 2021
<i>Sponsor</i>	Steve Pearson – Deputy Ombudsman
<i>Status</i>	OFFICIAL
<i>To be communicated to:</i>	Members and those in attendance

Executive summary
<p>The Board are asked to note the contents of the Horizon Scan.</p> <p>The horizon scan notes key changes in the sector which could impact demand for our service which includes changes to the Stamp Duty Land Tax holiday and the delayed introduction of the Civil Liability Act.</p> <p>Finally, the report highlights the current LSB discussion paper on Quality Indicators which follows on from the most recent CMA recommendations for transparency work in the sector. This paper proposes ways in which the sector can have a consistent and combined approach to quality indicators for the sector. We will be responding to the paper and reflecting on it in relation to our proposed programme on Transparency and Reporting Impact.</p>
Recommendation/action required
Board is asked to NOTE the update and analysis provided.

Impact categories

High – this issue has the potential to alter our day-to-day operations within the next year and may require a direct response.

Medium – this issue could necessitate policy development on an issue; it may affect the environment in which we operate and/or is likely to affect us directly within the next three years.

Low – this issue may have an effect on our stakeholders but is unlikely to require any action from us and/or the issue is unlikely to develop for five years or more.

Horizon Scan – March 2021

Overview

Likelihood score refers to how probable it is that we will be impacted. Demand is effect on complaint volumes.

Issue	Impact	This will affect...	Likelihood (1-5)	Demand
LSB Quality Indicators discussion paper	High	How and where complaints information is shared	1	n/a
Extension of stamp duty holiday	Medium	Complaint volumes	2	↑
Introduction of Civil Liability Act	Medium	Complaint volumes	2	↓
Continued hardening of the Professional Indemnity Insurance market	Medium	Complaint volumes and consumer ability to access redress	3	↓
Increase in employment claims	Medium	Complaint volumes	3	↑

Thematic issues and news

➤ *High impact*

Ongoing work on quality indicators for the sector

Following the most recent CMA report on the legal sector the LSB have now published a discussion paper on quality indicators for the sector. The detail of the paper is set out in the research and reports section below.

We have committed to work on the Transparency and Reporting Impact project this year. The ongoing work by the LSB and others in the sector means there is greater potential for exploring how ombudsman data is shared more widely and looking at whether it can be successfully contextualised. It could also lead to further work on existing policies.

➤ *Medium impact*

Introduction of the Civil Liability Act

The introduction of the Civil Liability Act (whiplash reforms) was put on hold last year due in part to Covid-19. This is now set to come into force at the end of May. The key changes are the introduction of a fixed tariff for soft tissue injuries which will reduce the average claim to £235, increasing the small claims limit from £1,000 to £5,000 and creating an online “Official Injury Claim Portal” for claims under £5,000. In addition legal expenses insurance will no longer be available for cases valued at less than £5,000.

At this stage it is likely that this will lead to a decrease in Personal Injury complaints, which is one of the Legal Ombudsman’s top five complaint areas, in particular because of the reduction in the value of claims and the removal of insurance funding which is a common route for many consumers. However, a number of law firms have announced that they will be selling services for the claims portal which could mean that the reduction in complaints could be less significant, or could lead to a trend in complaints as firms and consumers adapt to a new system.

The reforms could also lead to consolidation and mergers within the existing PI market, and there could be a shift of work to Claims Management Companies.

➤ *Medium impact*

Extension of Stamp Duty Holiday

The recent budget extended the Stamp Duty Land Tax holiday until June 2021. We have previously reported on the SDLT and the likelihood of an increase in complaints following the end of the holiday period from those who fall outside the date. This increase is still likely to happen but is now likely to be a few months later.

➤ *Medium impact*

Professional Indemnity Insurance

Last September we highlighted the concerns around the October 2020 renewal market. Although the SIF (Solicitors Indemnity Fund) had been extended for 12 months, there was a general concern that the market was hardening.

These concerns continue with reports of increases in premiums, demands for personal guarantees and policy excesses being paid into escrow accounts. There are also concerns that the SDLT holiday will lead to pressures on firms and liabilities which will need to be covered by PII.

This will need to be monitored to understand the final impact on firms later in the year.

➤ *Medium impact*

Increase in employment claims

MoJ data shows that multiple claims in the employment tribunal nearly doubled at the end of 2020, and the number of single claims increased by 25%. These are thought to be due to changes in employment conditions during the pandemic, and the data shows that working time claims took the place of unfair dismissal as one of the most common claims. This has the potential to lead to a short-term increase in complaints in the coming months.

Research and reports

Ongoing competence: In February the LSB published their evidence summary following their call for evidence on Ongoing Competence in the legal sector. Following the evidence summary there will be further workshops over the coming months and a consultation in the second half of 2021.

The report looks at four key themes:

- *Consumers' experience of legal services.* Competence is vital to trust in the profession and consumers assume legal professionals are and remain competent and checks exist to assess that.
- *Areas of increased risk for consumers.* Potential areas of law where targeted intervention is required for example immigration and asylum, criminal advocacy, representation in youth courts. These are also areas where vulnerable consumers are more likely to be using services.
- *Existing competence tools.* There are a range of tools used to assess ongoing competence but these are not standardised across the sector and are not always risk based.
- *Potential approaches to ongoing competence.* There are a range of examples from other sectors which can be used to inform future thinking for the legal sector, but the report also highlights the spectrum of views within the sector. Some are clear that competence based on entry requirements cannot be a career long guarantee. Others feel that there is no evidence of systemic challenges that require a wider approach, and the cost of new approaches would need to be carefully weighed.

LSB expect to set high-level requirements which:

- Set out standards of competence at entry and throughout their careers.
- Develop mechanisms to identify professionals who are not meeting standards / identify areas of risk to consumers / responds when consumers fall short of standards of competence / provide appropriate protection when there is an increased risk of harm.

Considerations for the Legal Ombudsman:

- There is potentially a further role for the Legal Ombudsman in supporting the regulators to identify competence issues. We have a statutory duty to refer potential misconduct but competence is a wider question than this. If considered to be appropriate we may need to consider if this falls within existing powers to refer potential misconduct.

Upcoming consultations and publications

Quality indicators in the legal services market: discussion paper: The LSB have published a [discussion paper](#) which seeks views on a quality indicators framework for the sector, and follows on from the most recent CMA recommendations on transparency.

The paper looks at the different aspects of quality (quality of advice, quality of service, delivery of outcome) and three potential categories of data (objective data such as complaints and disciplinary records, consumer feedback, general information about providers such as size and experience).

It considers potential solutions and notes the need to find balance between finding appropriate solutions that support consumer choice, but not putting a disproportionate burden on the profession or creating perverse incentives. Working more closely with digital comparison sites and the development of a single digital register.

We will be responding to the discussion paper by the deadline of April 22nd.