

Response to Legal Ombudsman Discussion paper: Transparency and Reporting Impact

Introduction

The Scottish Legal Complaints Commission (SLCC) is pleased to be asked to contribute to the discussion led by the Legal Ombudsman (LeO) on Transparency and Reporting Impact. Despite the differences in our contexts and statutory powers, there is much we recognise in the discussion paper, and many of the key questions and themes LeO has identified chime closely with our own experiences and thinking.

Current position in Scotland

[The Legal Profession and Legal Aid \(Scotland\) Act 2007](#)¹ currently prevents publication of any information (outcome, or even that a complaint has been received) in most cases, and makes it a specific criminal offence (s43). There is an exception where the individual case is deemed i) exceptional ii) publication is in the public interest, and iii) 4 weeks notice is given to the practitioner (s13).

The current policy position of the SLCC is that there needs to be greater transparency. We have suggested that regulators should be required to work together to publish meaningful consumer information (para 4.5 of our [roadmap for reform](#)²); this would include complaints data.

LeO and the position in England and Wales

While it is for LeO and its stakeholders in England and Wales to agree the best way to proceed to achieve the identified aims, we have found it helpful to consider the discussion and proposals in light of our own context, and the challenges and opportunities we face in improving transparency and our reporting on our work – both within our current statutory framework, and in proposals for future reform here in Scotland.

Some key areas of shared challenge which we recognise from the paper include:

- providing insightful and indicative case summaries that will help the sector to understand our approach, to demonstrate best practice and where services often fall short, and more broadly to communicate the work we do, within existing resource
- protecting the confidentiality of informal and consensual resolution of complaints which do not reach a determination stage, while ensuring that what is published does not produce an unrepresentative view of the wider complaints landscape (as LeO is

¹ <http://www.legislation.gov.uk/asp/2007/5/contents>

² <https://www.scottishlegalcomplaints.org.uk/media/1471/reimagine-regulation-appendices-to-our-roadmap.pdf>

aware from our previous discussions regarding the use of mediation in our work, the SLCC has put a particular focus on supporting early and consensual resolution of complaints, wherever possible. We are aware, though, of the challenge this poses for our broader aims around transparency and clarity of reporting on our outcomes)

- reporting on complaint numbers in key sectors without reliable contextual details to aid understanding
- the resource cost of publishing information in the correct format, where budgets are tight and open to scrutiny and challenge from the profession which funds our work.

We very much look forward to hearing more about LeO's developing work in this area, and we would be delighted to discuss this further if it would be useful to share our current thinking on any of these issues. We would be open to joint work to make the case for change in this area, working to reflect our local jurisdictions but also the cross-border lives and expectations of many users of legal services.

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