

Meeting	OLC Board	Agenda Item No. Paper No.	10 106.8
Date of meeting	27 July 2020	Time required	20 Minutes

Title	Transparency agenda: post consultation
Sponsor	Mariette Hughes
Status	OFFICIAL

Executive summary
<p>In October 2019 the Legal Ombudsman published a discussion paper seeking views from stakeholders about the ways the transparency of our work could be improved, and how the impact of our work could be reported.</p> <p>This report sets out the work completed to date, and summarises the stakeholder responses received. A full copy of the paper intended for external publication is enclosed at Appendix 1, and incorporates previous feedback received from OLC Board members.</p>
Recommendation/action required
Board is asked to NOTE the report and APPROVE the paper for external publication.

Transparency agenda: post consultation

Background

The Legal Ombudsman recognises the need to be open and transparent, which is recognised by the Ombudsman Association as forming one of the key principles of good complaint handling. This is fundamental to accountability, and enables a scheme to demonstrate fairness of approach, which in turn increases public confidence.

Other ombudsman schemes have already acknowledge the value of greater transparency of complaints data and moved towards the publication of a wider range of information:

- The Local Government and Social Care Ombudsman (LGSCO) publishes a vast range of information about the cases it sees and the decisions it makes.
- The Financial Ombudsman Service has been required by statute to publish its decisions since 2012, and it provides a wide range of data on businesses and the complaints it sees as well.
- The Pensions Ombudsman also publishes its decisions as a way of setting service standards and guiding providers on how to interpret the rules of its scheme, and have found a degree of success in doing this.

In December 2016, the Competition and Markets Authority (CMA) published the final report of its legal services market study. This report made a number of recommendations for improvement in the way the legal sector operates, and focused in large part on the degree of transparency offered by firms and regulatory bodies alike. This centred on pricing structures and service provision, but also made reference to complaint procedures and signposting

More specifically for LeO, a number of recommendations were made regarding greater transparency. The discussion paper published in October 2019 sought to discuss which steps LeO can take to best serve the needs of consumers, the profession and the wider sector.

Work completed so far

The Legal Ombudsman has published a number of illustrative case studies to help service providers to understand the organisation's approach to applying the Scheme Rules and the limits of the scheme's jurisdiction. These are short, anonymised summaries of real cases that have been brought to LeO and are shared to make processes clearer.

The Legal Ombudsman publishes a data table which provides a simple and transparent record of decisions made by ombudsman at the final stage of the process. The data appears on the website, and a new website platform is currently under development to improve the accessibility of information for stakeholders.

The Legal Ombudsman responded to the original CMA market study, providing evidence at the initial, interim and final stages. Responses were also submitted to all of the individual regulators' own transparency consultations.

Following the final report of the Better Information research, the Legal Ombudsman decided to amend the information published within its decision data, to make clear whether the complaints handling was reasonable or not, regardless as to whether a remedy was directed. The necessary changes have been made within CMS, and the improved data should pull through from Q2 onwards.

Conversations have taken place with other ombudsmen schemes to understand their experience of publishing decisions, and the various challenges and processes they have gone through in moving towards wider publication of data.

Finally, the discussion paper was launched in October 2019, to better understand the stakeholder and public appetite for greater transparency within our data. This paper set out a wide range of options as to how our data could be used, and sought opinions on the various proposals put forward.

Responses to the paper

Although relatively few responses were received to this discussion paper, most were detailed, and provided a cross-section of opinion on the various policy options under consideration.

Many respondents to the paper expressed concern that the Legal Ombudsman website would not be an obvious place to go for members of the public, and therefore they would be unlikely to access information in this way. Concerns were also raised about the fairness of publishing more data, and that any decision made about a firm would be perceived negatively.

A full summary of the responses received and our plans to take this work forward is included at Appendix 1.

Proposed solutions

It is proposed that the Legal Ombudsman:

- Continues to improve the presentation of available data fields;
- Undertakes a pilot project in order to assess the viability of approaches such as annual reviews for firms in providing direct feedback to providers;
- Develops a business case for a publishing full decisions project, to include consultation with the sector;
- Continues to work with regulators and the LSB to explore the extent to which data can be contextualised, and
- Considers options for research in order to better understand the information which will be useful to the public.

Constraints

It is important to recognise that any changes to the data published by the Legal Ombudsman and the information presented publicly requires changes to be made to the case management and reporting systems.

This also requires dedicated resource to drive this work forward. As a result of the standstill budget and the need to focus resources on operational delivery and improvement work, there organisation does not currently employ any policy officers who could lead on this work.

Furthermore, the work required to press on with any changes is not work that can be conducted in isolation. It represents an organisational approach which requires operational buy in at all levels. Until and unless performance improvements are seen in operational delivery, it is unlikely that sufficient levels of resource within the organisation can be redeployed to assist with this work.

It is therefore unlikely that any of the proposed solutions can be implemented in the financial year 2020-21, and will be dependant on sufficient budget and resource being allocated in the next financial year.