

Legal Ombudsman 3 year strategy consultation paper

Horizon scanning

1. Have we considered all of the external developments that may affect our operations over the lifetime of this strategy? If not, what else should we take account of?

The horizon scanning summarised in the paper appears to be reasonably broad and wide ranging, with some areas noted potentially having a more direct impact than others.

However, it is difficult to say whether or not the potential impact of any external developments has been fully understood, with only a brief headline statement documented within the report.

Strategy and business plan

2. Have we identified the correct strategic areas to focus on in the next three years? If not, what should we be addressing?

These do seem to be sensible and appropriate strategic areas to focus upon.

3. Are there any objectives that should take priority amongst these?

Improving the service experience would be the obvious one from our perspective. As a relatively significant provider of legal services, we have regular contact with the Legal Ombudsman Service. The delays occurring at various stages of the Legal Ombudsman process have been very apparent on the majority of cases we have interacted upon.

Timeliness of response is a fundamental aspect of improving the service experience.

4. Will our proposed actions for the next 12 months help us to achieve the strategic objectives we have set for 2020-23?

In terms of the first strategic objective, it is noted that there will be an increase in operational headcount, which is welcomed and will presumably reduce the time taken for complaints to be assessed and resolved via this service.

However, this may present a different challenge around quality and consistency, especially if new staff are unfamiliar with the dispute resolution process. This challenge could become more acute if there is a significant intake of new staff at the same time.

One aspect not mentioned in the proposed actions is case fees. Being quite familiar with the Legal Ombudsman process, we are a strong believer that the existing case fee structure drives much of the process and behaviours of both the Legal Ombudsman and Legal Service providers subject to complaints. Our current view is that the current fee structure is detrimental to the process.

The current structure charges a flat case fee irrespective of when in the Legal Ombudsman process a complaint is resolved (on complaints where there is a change in decision).

There is therefore little incentive to resolve complaints informally before receiving a written case decision. It has been noted that there has been a closer focus on this by the Legal Ombudsman over recent times, with a case worker making a telephone call prior to embarking on their investigation to assess if informal resolution is possible.

Legal Service providers may well take a cautious approach to this and reject any notion of informal resolution until they have seen a written report with the Legal Ombudsman's view on a complaint. After all, they have nothing to lose in asking for this, as the case fee remains the same.

Whilst it is acknowledged that statutory changes would be required to the Legal Service Act 2007 to make changes to the existing case fee charging structure, we would strongly encourage further consideration of this.

This was something suggested by the Legal Ombudsman some time ago but was deferred due to a lack of parliamentary time to consider any such changes (due to Brexit).

There could be significant efficiency benefits to be gained with a lesser case fee charged to reflect informal resolution. The lesser case fee would be an incentive for a Legal Services provider to resolve matters informally more often.

In terms of the second strategic objective, we welcome the possibility of more tailored support for firms. We have previously been in active engagement with the Legal Ombudsman and would like to continue to develop our working relationship for the mutual benefit of both sides.

We have also responded separately to the consultancy paper on transparency.

Budget

5. Do you agree with our plans for an increased budget in order to bring about the proposed improvements in customer journey and in learning and feedback to the sector?

We agree that an increased budget is likely to be required, especially to fund the increased operational staffing requirements to improve timeliness SLA performance.

As above, the Legal Ombudsman may wish to consider other ways of funding other than increasing the budget. In particular, there may be scope for restructuring the application of case fees to reflect the stage reached in the process. It may also be worthwhile making the case fee compulsory on every case, which is an approach taken by other Ombudsman schemes.

Alternatively, the introduction of a case fee based on case complexity might be considered, to adequately reflect the resource expenditure on each complaint matter.

Again, it is appreciated that this might not be straight forward given that a statutory change would be required.