

The Association of Consumer Support Organisations (ACSO) submission to the Legal Ombudsman's discussion paper on 'Transparency and Reporting Impact'

The Association of Consumer Support Organisations ([ACSO](#)) welcomes the opportunity to respond to the Legal Ombudsman (LeO) [discussion paper](#) on the ways it can improve the transparency of its work and better report on the impact it has.

ACSO was established in January 2019 to represent the interests of consumers in the civil justice system and the reputable, diverse range of organisations who are united in providing the highest standards of service in support of those consumers. Its role is to engage with policymakers, regulators, industry and the media to ensure there is a properly functioning, competitive and sustainable civil justice system for all consumers.

As such, ACSO welcome LeO's commitment to maintaining and promoting a policy of openness and transparency in keeping with the Ombudsman Association's 'principles of good complaint handling'. Providing consumers with a greater quality and quantity of data enables them to make better-informed decisions on which legal provider to use.

LeO has acknowledged that although consumers engage with the data it currently provides, most do so without a comprehensive understanding of what the data reveal. To make data available to the consumer that is obscure in any way, or even which holds the potential to be misunderstood, is at best unlikely to make any meaningful difference in addressing the information asymmetry which exists and could easily be counterproductive and will serve to reinforce any impression consumers might have of legal services being exclusive and/or closed to public scrutiny.

ACSO stresses the importance of presenting data in a clear and accessible manner, including developing the use of simple, plain English to explain the role of the ombudsman and the complaints process to consumers. Data should be seen as means to promote consumer empowerment, but it is essential contextual information is provided in a simple manner in order to avoid confusing or misleading people.

Consumers often require legal services at a point of some personal distress, such as to resolve a landlord or housing dispute, or to alleviate future distress, such as the writing of a will or probate. We agree that many consumers are confused or intimidated by the legal services market, therefore any measure that serves to ease their experience, improve their confidence and ensure they are receiving the highest-quality service should be supported.

We note that no mention is made within the discussion paper about the particular needs of vulnerable consumers. Technological and data-driven advances offer many advantages to consumers, however there are many who remain excluded, such as those who lack the appropriate IT and literacy skills. Furthermore, research commissioned by LeO shows that 21 per cent of people whose day-to-day activities are limited by disabilities do not understand

the complaints procedure, and that 25 per cent do not know how to complain.¹ We urge LeO to consider ways to improve information accessibility for all consumers, with a particular focus upon the most vulnerable in society and to incorporate reporting on key vulnerable consumer topics within its reporting.

When considering the long-term development of LeO's transparency and reporting impact, ACSO acknowledges the significant gap in data collection relating to contextual details within the legal services sector. Data collection is an integral part of the digital age in which we live, yet this age is still in its infancy. Further research is required on what data are most useful for consumers and how best to collate and present information, all the while navigating complex issues such as data privacy rights and potential breaches thereof. ACSO notes that it is the role of LeO to find a way to navigate any such challenges, albeit it with help and guidance from other ombudsman schemes, regulatory bodies and membership bodies

Finally, we wish to highlight the changing nature of the legal sector. Consumers are finding and accessing legal service providers in new ways, including through the growing, unregulated market offering services such as legal advice. In light of these developments, ACSO urges LeO to continue to work with a broad range of industry stakeholders to help consumers understand what to expect from the legal services sector, what protections are in place, and to allow flexibility for the sector to grow and innovate. ACSO would be very pleased to contribute further advice or evidence as required.

Proposals within the current powers of the LeO

Option 1: Create more filters to sort decision data

Q1. Would adding extra filtering options for our decision data help consumers to make informed decisions when selecting a service provider? Are there other filters we do not currently offer that we should consider including?

In regard to option 1, ACSO supports LeO adding extra filtering options to its decision data. This option appears relatively low cost and quick to implement. By allowing consumers to search for more specific data, it enables them to make better-informed decisions when selecting a service provider.

ACSO notes that this form of improvement, while helpful, has a relatively small impact upon the consumer as it does not address the root cause of what the user is experiencing. A comparison between the data provided by the [Financial Ombudsman Service \(FOS\)](#) and that provided by LeO shows the latter to be lacking in quality and quantity of information. While acknowledging the limitations placed upon LeO by the Legal Services Act 2007 as to what information it is able to publish, the data currently available should be better tailored to the consumer. For example, as with the FOS complaints data, information could be provided on the difference between the number of complaints received by each service provider from the previous period in order to show progress. The provision of data analysed and commented

¹ Economic Insight, *Better Information in the Legal Services Market*, June 2018

<https://www.legalombudsman.org.uk/wp-content/uploads/2017/11/Better-Information-Research-2018.pdf>

on by trends and contextualised to reflect the size and nature of the law firm and not just by the raw data, which would have a far greater impact on empowering the consumer. As would information on the date a complaint is made to LeO and the date on which a final decision is made.

In answer to what additional filtering options for decision data LeO could consider, ACSO suggests enabling consumers to view decision data on the percentage success rate of service providers at the final decision stage.

Option 2: Write annual reviews of service providers

Q.2. Would sending annual reviews to service providers (without publishing the information) be helpful in raising standards? If so, what should the selection criteria/methodology be?

ACSO agrees that the second option, for LeO to produce annual reviews of service providers, presents a potentially useful learning tool for both consumers and service providers. Research shows that firms are often surprised by LeO's powers, therefore clarification on the decisions made by the ombudsman is likely to improve service delivery.²

As LeO has already made clear, not all cases which reach the final decision stage are due to the fault of a service provider. Larger firms, which have a higher caseload volume, are likely to have a greater number of complaints set against them and therefore could find themselves unfairly penalised. As such, the detailed annual report to be sent directly to providers will only be of limited use as a tool to support their own learning if, as a larger firm, their inclusion within the report is owing to factors outside of their control. ACSO suggest consulting with other ombudsman services in order to determine how they structure their annual reviews, including what selection criteria and methodology are used. For example, FOS only publishes complaints data about individual businesses where they have received at least 30 new cases and resolved at least 30 cases during each 6-month reporting period.

Q.3. Would edited annual review letters be useful to consumers? Are there any risks we should take account of when considering this proposal?

The discussion paper has not made clear what information would be contained within the "edited version" of the annual report that would be made available to consumers. In light of this ambiguity, it is difficult to predict the benefits such a report could bring. However, in principle, and as stated above, ACSO supports measures to provide consumers with more information on service providers and the complaints system. Any information provided must be heavily contextualised and provide clear explanations of what is represented so as to avoid misleading or confusing consumers.

² Economic Insight, *Better Information in the Legal Services Market*, June 2018, p.33.
<https://www.legalombudsman.org.uk/wp-content/uploads/2017/11/Better-Information-Research-2018.pdf>

We note that publications currently available on the LeO website can be produced in braille, audio tape and a range of other languages. ACSO expects the same range of access to be made available to consumers in the event that any new data or information is published, such as edited review letters.

Option 3: Publish all ombudsman decisions in full

Q.4. How might publishing full decisions help consumers to assess quality of service?

ACSO supports the third option, to publish all decisions made by the ombudsman in their entirety. As stated in the discussion paper, most ombudsman services in the UK publish full decisions and it is widely regarded as best practice.

In its 'Better Information in the Legal Services Market' report, Economic Insight concluded that information provision has a positive effect on consumers and that better-informed consumers generally experience better outcomes.³ Explanation of a complaint and the final decision made by the ombudsman helps consumers to understand the gravity of a complaint and whether the service provider was at fault.

As a working example, FOS decision data provide consumers with information on the complaints charged against individual businesses and the decisions made by FOS in complaints that may be similar to their own. Information is presented in an easily accessible manner; consumers are able to filter data by keywords or product, individual businesses, specific sectors, dates, and by decisions that were upheld or not upheld. ACSO urges LeO to adopt a similar presentation of full decision data in the event option 3 is implemented.

Q5. In what ways could publishing full decisions have benefits for firms and the wider sector?

The publication in full of all decisions made by LeO is likely to benefit firms and the wider sector by promoting best practice and enabling the identification of common or systemic issues. In 2017, research by London Economics and YouGov revealed that 93 per cent of firms believe there are business benefits to complaints handling, including the improvement of service delivery, understanding consumer expectations and by providing the opportunity to improve consumer retention.⁴ Although this research was conducted on first-tier complaints, there appears no reason why the publishing of full decisions by LeO should not bring the same advantages. Furthermore, shared learning from complaints will benefit consumers, thereby serving to reduce the overall number of complaints.

³ Economic Insight, *Better Information in the Legal Services Market*, June 2018, p.50.

<https://www.legalombudsman.org.uk/wp-content/uploads/2017/11/Better-Information-Research-2018.pdf>

⁴ London Economics and YouGov, *Research into the Experiences and Effectiveness of Solicitors' First Tier Complaints Handling Processes*, October 2017, p. x. <https://www.legalombudsman.org.uk/wp-content/uploads/2017/11/FINAL-First-Tier-Complaints-Report.pdf>

Q.6. What reasons should we consider for not publishing full decisions? Please provide evidence with your answer.

Little has been said in the discussion paper as to how LeO will effectively communicate to consumers what its decisions can and cannot guarantee about the quality of a service provider. In addition, the tracking of all other sites where LeO data are deployed to ensure such explanations are provided appears an expensive and time-consuming task. Further information is required as to how the LeO will navigate these challenges.

Proposals for long-term development

Option 4: Contextualise LeO decisions with firm-based data

Q.7a. Would it be useful and appropriate to be able to provide contextual information alongside our decision data? Do you foresee any potential difficulties with this, other than those already identified?

In regard to option 4, contextualising LeO's decisions with firm-based data, ACSO agree that the implementation of this measure will enable consumers to gauge more accurately satisfaction with individual firms and legal services in general. As mentioned above, complaints data is hollow unless contextual information is provided.

ACSO acknowledges that information such as the annual turnover, the number of fee earners or number of matters handled could be seen as commercially sensitive data and that certain legal service providers may be unwilling to make this information publicly available. LeO could consider seeking powers to impose requirements on firms and/or seek the support of the Solicitors Regulation Authority (SRA) to submit contextual data to LeO in order for it to be published. As an alternative, or in addition to, best practice should be encouraged by LeO (and others, such as the SRA) from within the sector and additional contextual data could be provided voluntarily by individual law firms which provides consumers with more meaningful complaints data to assess the standards of the service being offered and not just restricted to data on complaints which are formally reported to LeO. In addition, LeO should consider making it mandatory for firms to publish contextualised complaints data prominently on their websites.

To conclude, in order to advance the important initiatives of the Competition and Markets Authority (CMA) in relation to provision of data and further insights, and to increase transparency and reporting, data must be placed within context. As stated by the CMA, much higher standards of transparency are required by legal service providers in order to help consumers understand the price and service they will receive, what redress is available, the regulatory status of their provider, and to compare providers.⁵ ACSO notes that it is the role of LeO to find a way to overcome any challenges that may arise from collecting contextual

⁵ Competition and Markets Authority, *Legal Services Market Study: final report*, December 2016, p. 18: <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>

data, albeit it with help and guidance from other ombudsman schemes, regulatory bodies and membership bodies.

Q7b. (if you are responding from a regulatory body) What are some of the barriers preventing sharing of contextual data, or lessons we can learn from other sectors? Are there ways of overcoming these?

Not applicable. ACSO is not a regulatory body.

Q.8. Does publishing a greater range of data provide consumers with better information on which to make decisions about choosing a provider?

Yes. Providing consumers with a greater range of data on complaints, including complaints that do not receive a final decision from the ombudsman, will better inform their judgements when choosing a service provider. ACSO agrees that as an indicator of dissatisfaction on the part of consumers, there is a blurred distinction between complaints that are resolved more informally and those that receive an ombudsman's final decision. Furthermore, as stated in the 'Better Information in the Legal Service Market' Report, in 2016/17 of the complaints resolved by LeO 38 per cent resulted in an ombudsman's decision, 36 per cent were resolved informally and 26 per cent were either withdrawn or dismissed.⁶

This information is already readily available and would provide the consumer with further easily accessible data relevant to the quality of services being offered.

Again, we urge LeO to contextualise any published data on complaints received against an individual legal service provider.

Q.9. Would it be useful for LeO to publish a greater range of data for other reasons?

ACSO have no further comments to add other than the points made above.

Q.10. Would allocation of resource to changing the Legal Services Act 2007 be appropriate? Who would be most appropriate to work with us on this project?

Broadly, ACSO supports the proposal to allocate a greater investment of budget and resources into changing the Legal Services Act as this will enable LeO to provide consumers with a greater quality and quantity of data. However, in the absence of a detailed cost analysis, ACSO is unable to make an informed statement at present.

Budget/ resources

Q.11. Would you support greater investment of budget and resources into improving our data collection and analysis for the purpose of transparency?

⁶ Economic Insight, *Better Information in the Legal Services Market*, June 2018, p.33.

<https://www.legalombudsman.org.uk/wp-content/uploads/2017/11/Better-Information-Research-2018.pdf>

As with the above, in the absence of a detailed cost analysis, ACSO is unable to make an informed statement at this point. But, subject to the analysis required, ACSO supports the principle of LeO improving data quality, analysis and reporting. Indeed, without doing so, ACSO believes the current approach and investment of resources being applied to this area is of questionable value to the consumer.

Further research is required on what data would have the greatest value to consumers, how these can best be collected and presented, and the financial cost involved. We highlight the changing nature of the legal sector, with consumers finding and accessing legal service providers in new ways. In light of this, ACSO urges LeO to work with a broad range of industry stakeholders to help consumers understand what to expect from the legal services sector, what protections are in place, and to allow flexibility for the sector to grow and innovate. Again, ACSO would be very pleased to contribute further advice or evidence as required by the LeO.

Conclusion

Q.12. Have we considered all the potential advantages and disadvantages of these four proposals? Please provide evidence to support your answer.

ACSO has no further comments to add beyond what has been stated above.

Q.13. Are there other ways we could improve our transparency?

The findings from the reports 'Better Information in the Legal Services Market' and 'Legal Services Market Study' reveal many firms are not meeting their regulatory obligation to inform consumers about LeO at the end of their complaints process. The CMA found that just over half of the SRA-regulated firms in its sample provided clear information on its complaints procedure, including information about LeO.⁷ More needs to be done to ensure that consumers are aware of their rights and of the work of LeO, including enforcing disciplinary measures on firms that do not meet their regulatory obligations. This will have the added benefit of increasing the accuracy of complaints data, thereby further aiding consumers in their judgements about which legal service provider to use.

ACSO reiterates its suggestion that LeO encourage legal service providers to publish voluntarily contextualised complaints data prominently on their websites, including complaints that reach LeO and those which do not.

The drive to improve transparency is welcome as a means to support access to justice, raise wider industry standards and to empower consumers. Accessibility for all consumers, in particular vulnerable consumers, should be made a priority. LeO should work with other ombudsman schemes, regulatory bodies and representative groups in order to research how

⁷ Competition & Markets Authority, *Legal Services Market Study Final Report*, 2016, p. 72.

<https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>

best to improve business intelligence reporting and technological innovation across the wider legal sector. ACSO welcomes the opportunity to contribute any further views as required by the Legal Ombudsman.

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