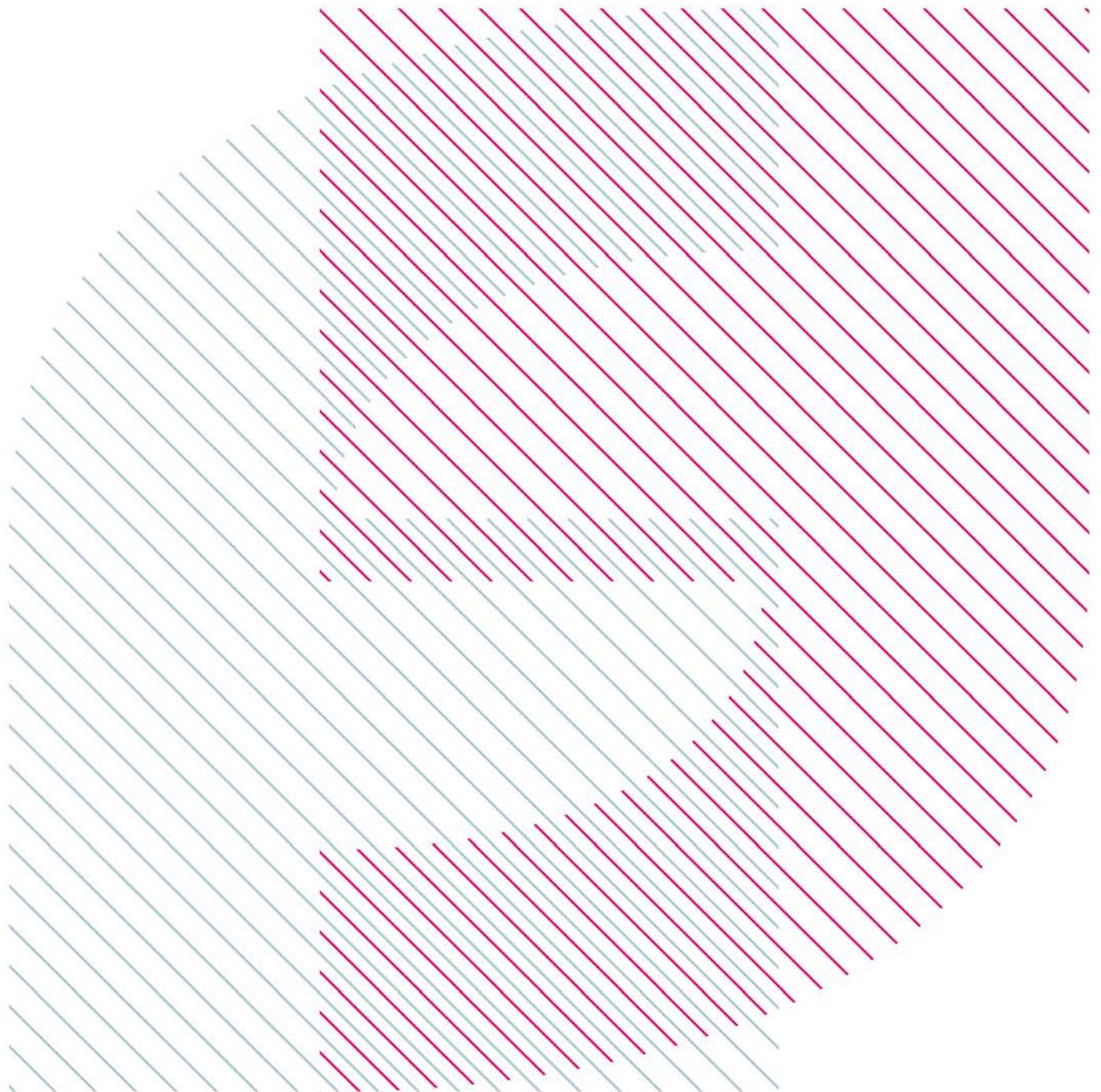




Consultation Response

***Department for Business, Energy
and Industrial Strategy***
**Modernising Consumer
Markets**



Introduction

1. The Legal Ombudsman (LeO) was established by the Legal Services Act (2007). Our role is two-fold: to protect and promote the public interest by resolving complaints and providing redress when things go wrong in transactions within the legal services market, and also to feed the lessons we learn from complaints back to the profession, regulators and policy makers to allow the market to develop and improve.
2. We welcome the opportunity to respond to the Department for Business, Energy and Industrial Strategy's (BEIS) consumer green paper on Modernising Consumer Markets.
3. We are responding to this consultation as one of the statutory ombudsman bodies in the UK, in order to share our experience and insights of running an ombudsman scheme. We also have an interest in the development of the wider redress landscape.
4. At the Legal Ombudsman, we are not champions for the profession or consumers. We see our role as ensuring that there are reasonable options for redress open for consumers.
5. As the consultation looks at enforcement and redress across a variety of sectors we have provided a number of comments below based on our experience of running a statutory scheme and the challenges that the consultation raises. We have also included an overview of our decision not to become an Alternative Dispute Resolution (ADR) provider under the European Union Directives and our thoughts in this area.
6. We would welcome the opportunity to discuss our experience with you further at an appropriate time.

Supporting consumers to pursue their complaints

7. The paper sets out three key challenges with alternative dispute resolution schemes in the UK at the moment:
 - Take-up of voluntary alternative dispute resolution in non-regulated markets has been low, since the introduction of the EU Alternative Dispute Resolution Directive. However the value for complaints in some of these areas is high, ie in vehicle sales and housing/home improvements.
 - Awareness of alternative dispute resolution schemes with consumers.
 - Quality of the service offered by alternative dispute providers.

Take-up of ADR schemes

8. We are unable to comment directly on take-up of the voluntary scheme, however we note the intention to consider making areas such as vehicle sales and housing sector mandatory schemes. Complaints about conveyancing consistently account for the largest proportion of cases we investigate, around 25%. We therefore have a wealth of experience and evidence which may be useful to you as you consider this area, for example the types of complaints that consumers have and the areas where we find poor service.
9. While the paper does not specifically look at the EU ADR Directive we should note that the Legal Ombudsman decided not to become the ADR provider for the legal sector. The requirements of the EU Directive, for example around the timescales for investigating, conflicted with our existing processes and the requirements of the Legal Services Act. We recognise that this now means that legal service providers have to signpost to multiple organisations in their complaints process, and this raises the potential for consumer confusion about access to redress schemes. We welcome the opportunity to explore this further.

Awareness of ADR schemes with consumers

10. Ensuring consumers are aware of an ADR scheme can be challenging.
11. We undertake an annual consumer awareness survey, and in the last year (2017-18) it showed that 64% of consumers who had used a legal services in the past two years had heard of the Legal Ombudsman. This is a relatively high figure and may be linked to the signposting requirements that are placed on service providers.
12. The Legal Services Act, which provides the basis for the Legal Ombudsman scheme, requires all service providers to have a complaints process in place and to tell consumers (signpost) about the Legal Ombudsman at appropriate points. Recent research for the legal sector¹ highlights that if information is available about regulation and redress they may influence a consumers decision about which service provider to use. However we also know from our experience that consumers are more likely to become interested in the availability of a redress scheme at the point at which something goes wrong. We would recommend, especially for mandatory schemes, that clear signposting requirements are put in place to make consumers aware of their existence at the point of need.

¹ Better Information in the Legal Services Market (2018), Economic Insight
<http://www.legalombudsman.org.uk/?portfolio=better-information-in-the-legal-services-market-research-report>

Quality of service offered by ADR providers

13. The independent research commissioned by BEIS highlighted that consumers using ADR schemes had problems concerning areas such as the time taken for investigation, levels of customer service and a perception that the process favoured the business. It also highlighted that some consumers ultimately ended up pursuing the complaint in court because the business refused to comply with the decision of the ADR body.
14. The quality of our service is something that we take very seriously. We have specific Key Performance Indicators that we report on regularly, and we undertake a customer satisfaction survey throughout the year which looks at a range of factors.
15. We know from our experience that the views and satisfaction of both consumers and service providers will be influenced by the outcome of their complaint. Again we are happy to share our experience in this area, and always welcome learning from others.
16. The paper has highlighted specific areas such as housing and motor vehicles where the financial value of complaints tend to be higher, and consequently so is the potential detriment to consumers. As thinking in these areas is developed it is worth considering the extent to which any redress scheme has the ability to enforce their decisions. The Legal Services Act empowers the Legal Ombudsman to enforce decisions if required. If a redress scheme does not have these powers it could impact consumer confidence in the scheme, as well as adding another layer of complexity to the process if they still have to take the matter to court.

Conclusion

17. Thank you for the opportunity to comment on the Consumer Green paper proposals on Modernising Consumer Markets.
18. We look forward to working with the Department for Business, Energy and Industrial Strategy to share our experiences of running an ombudsman scheme and explore issues raised in the paper.

For any questions about our response please contact our Stakeholder and Public Affairs Officer at alex.moore1@legalombudsman.org.uk
