



## **COUNCIL FOR LICENSED CONVEYANCERS**

### **RESPONSE TO LEGAL OMBUDSMAN DISCUSSION PAPER: TRANSPARENCY AND REPORTING IMPACT**

**January 2020**

#### **INTRODUCTION**

The CLC welcomes this discussion document from the Legal Ombudsman (LeO).

We have long sought improved information on complaints handled by LeO to support our work with the specialist property and probate firms that we regulate. A pattern of complaints could indicate that there are more significant problems at a practice and some complaints point directly to conduct issues. Since November 2019, the data provided to the CLC to inform our monitoring and compliance work with regulated entities has improved significantly and we are grateful to LeO for the changes they have made to that data following our discussions with them.

A related area of use for complaints information is to fuel work with legal services providers to improve client service, improve the management of first tier complaints and reduce the number of complaints coming to the LeO. We are pleased that this is an area of particular emphasis in LeO's current strategy consultation and we are keen to work more closely with LeO and the regulated community to reduce the number of complaints that arise in the first place and especially to reduce the number that reach LeO.

The CLC and other regulators implemented new rules in 2018 to ensure that firms publish information about price and service to help consumers choose. With other legal regulators we are now looking at the issue of quality indicators and it is generally expected that complaints data could provide an element of that quality assessment for consumers. However, it would seem that client feedback through third party review platforms could provide consumers with greater and more easily comprehensible insight than the complaints data that is available.

#### **WHAT INFORMATION COULD BE PROVIDED TO CONSUMERS?**

It is important to recognise that the complaints that reach the point of LeO making a determination are very small in number when compared to the numbers of transactions carried out overall. This must bring in to question whether the data on those complaints, whether the numbers without further commentary or more detailed analysis, would be genuinely helpful to consumers when making their choice of lawyer.

If LeO were able to publish numbers of complaints that are resolved informally, this might prove to be a more useful metric. Whichever figures are published, contextual information will need to be provided and this presents its own challenges as data on transaction volumes will be needed for the comparator period of complaints that are being listed.

## **WHERE SHOULD INFORMATION BE PUBLISHED TO HELP CONSUMERS?**

A key question to be addressed, and which might influence the nature and format of data LeO should publish, relates to consumer behaviour and where they are most likely to be able to access that data and be able to make comparisons.

Research has found that consumers are not generally inclined to invest a great deal of time into comparing legal service providers. The Legal Services Consumer Panel's 2019 Tracker Survey found that 40 % of legal service users said that their search process took a day or less. 75% compared three or more providers. Taken together, these findings seem to indicate that consumers want to be able to compare a good range of possible providers quickly. This surely means that the sector needs to work together to make available in easily digestible formats in locations that pull together all the data that consumers want to use. At the moment, there are two places where information is drawn together: comparison websites and firms own websites.

Obviously, comparison websites will offer an easier approach than visiting several different firms' websites. At the moment though, they do not carry all of the information that the Competition and Markets Authority recommended and legal regulators require firms themselves to publish on their own sites. Publication on the Legal Ombudsman's own website would mean that the information would be unlikely to reach the vast majority of consumers.

So information that LeO publishes to inform consumer choice of lawyer should probably be in formats that can be used by comparison website managers or easily published on firms' websites alongside other relevant data.

In relation to information for firms' own websites, it will be important for LeO to work with regulators and law firms to shape that information. Regulators will also want to consider whether they wish to make publication by firms of the data relating to them optional or mandatory.

## **SHOULD THIS BE A PRIORITY FOR LeO NOW?**

Given the demands on LeO's resources and the significant backlog in dealing with complaints which it must work urgently to overcome, the CLC believes that the publication of complaints data is a challenge to which LeO should return later. New services could be added by LeO when the resolution of complaints themselves has been stabilised and is being achieved consistently in a timely manner. Those new services should, we believe, be delivered within the existing budget envelope as we cannot support the current request for a budget increase.

Delays in handling complaints are not only detrimental to the complainants and indeed the law firms involved, but also presents a serious risk to the wider client groups as the substance of those

complaints may contain direct or indirect evidence of significant compliance issues in practices. It is therefore imperative that the delays be overcome before LeO seeks to extend the services it offers.

Our responses to the questions in the consultation document, set out below, need to be read in the light of these opening remarks.

## **CLC'S RESPONSES TO QUESTIONS IN THE DISCUSSION PAPER**

***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?***

The challenge in approaching the publication of more complaints data to inform consumers will be to manage the content and presentation to be easily digestible and simple to compare so this question should be informed by what data comparison websites could usefully include in their listings and what information consumers themselves say that they would find valuable.

It might be helpful to some users to add a filter for the number of complaints that resulted in a finding of poor service. That information might be more significant than whether a financial remedy was applied. This raises the perennial question of contextual information, however, so that numbers of complaints can be understood in light of volumes of business, in particular.

However, it would seem that numbers of complaints for each firm are so low when compared with transaction volumes as to provide little practical insight for consumers or to aid genuine comparison. The exception might be highly motivated consumers who will drill down to review the information about each complaint. However, there is no reason to believe that such consumers exist in significant numbers and there must be a question about where it is right for LeO to focus its resources given its current challenges.

This leads us to the conclusion that the development of more information for publication should focus on efforts to reduce complaints and improve complaints handling in the sector. In other words, publication should be targeted at legal service providers and quantitative data could be made available for comparison websites if that can be achieved at proportionate cost.

***Q2. 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?***

This could be helpful, as could informal feedback while cases are in progress. We imagine such feedback would be focused on how to avoid similar complaints reaching LeO in future. Given the potential resource implications though, such annual reviews might be limited to those firms that show a persistent service failure in some particular respect or a careless approach to complaints handling.

The CLC proposes working together on a pilot scheme for such reviews so that their impact can be assessed before any major process changes or investments are made by LeO.

***Q3. Would edited annual review letters be useful to consumers? Are there any risks we should take account of when considering this proposal?***

Annual review letters probably fall into the category of ‘difficult to assess quickly’. There is also a danger that publication of such letters could lead to demands for the OLC to rate firms for their complaints handling. We do not believe that the publication of annual review letters is something that LeO should pursue.

***Q4. How might publishing full decisions help consumers to assess quality of service?***

The CLC considers that the publication of full decisions is unlikely to help many consumers assess the quality of service of a legal service provider unless they were to be published on firms own websites. Given that the vast majority of firms receive very low numbers of second tier complaints and given that the numbers of remedies finally applied are low overall and the sums involved are generally modest, full decisions are unlikely to help consumers compare providers. Where there are serious or multiple complaints against one firm, that might provide consumers with a warning against using those firms, but quantitative rather than qualitative data is most likely to be helpful in such instances.

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

Although we doubt the utility of full decisions for consumers, they could be very helpful if made available to regulators and lawyers. Case studies have been used successfully to help legal services providers consider how they might improve their own services or complaints handling. Full decisions could provide very useful insight for firms, especially if written in such a way as to require no further commentary or explanation.

***Q6. What reasons should we consider for not publishing full decisions? Please provide evidence with your answer.***

We cannot think of any reasons not to publish full decisions, subject to the usual privacy concerns for the complainant, other than the potential demands it could place on LeO’s resources when the focus should be on speeding up the resolution of complaints. Comparison providers might be able to find ways to make the information available in digestible formats to consumers.

***Q7a. 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?***

For the conveyancing and probate services that the CLC regulates, we believe that contextual data would be essential, but that there are challenges around ensuring, for example, the number of complaints and the number of transactions refer to the same period.

Partial contextual information on conveyancing transactions is available from HM Land Registry, but captures only purchases and remortgages carried out by a firm, not sales. Firms themselves could provide transaction volume data for a fixed period. Probate transaction data is less easily available.

Data on the professional indemnity insurance year would be easiest to collect. More frequent collection could prove disproportionately onerous.

***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?***

There are no very significant barriers, but there are limits to what data it is proportionate to collect for publication.

***Q8. Does publishing a greater range of data provide consumers with better information on which to make decisions about choosing a provider?***

As set out in our introductory comments, data on complaints could help consumers in their choice of legal service provider if it is easily comparable and published in places that they are already visiting to make their choice. However, it is likely to be less useful than client feedback provided through third-party review platforms.

***Q9. Would it be useful for LeO to publish a greater range of data for other reasons?***

It could help build confidence in LeO itself by building improved understanding of LeO's approaches and inform thinking about how complaints handling can be improved.

***Q10. Would allocation of resource to changing the Legal Services Act 2007 be appropriate? Who would it be most appropriate for us to work with on this project?***

If the Act can be easily amended to allow LeO to published data about complaints that are resolved informally, we believe that this would be useful. The Ministry of Justice (and possibly the Deregulation Unit in the Cabinet Office) are best placed to help with this sensible step and find a legislative vehicle for the amendment.

***Q11. Would you support greater investment of budget and resources into improving our data collection and analysis for the purpose of transparency?***

The CLC does not support any increase in the OLC budget from its current, generous provision. We would expect improved data to be able to be achieved within existing resources. That may mean that effort to prepare complaints data for publication should be postponed until delays in complaints handling are overcome.

***Q12. Have we considered all the potential advantages and disadvantages of these four proposals? Please provide evidence to support your answer where possible.***

We would suggest that research with consumers and consultation with comparison website providers could provide important further insight to shape the future publication strategy of LeO.

***Q13. Are there other ways we could improve our transparency?***

The published KPIs for LeO may not always given an accurate picture of the organisation's performance. This is a slightly different issue than is covered by this consultation, but it would seem timely to review those KPIs and consider whether it is possible to create a set of published figures that would provide a fuller insight into the work of LeO and build stakeholder confidence.