

Meeting	OLC Board	Agenda Item No.	8
		Paper No.	99.6
Date of meeting	24 October 2019	Time required	10 Minutes

Title	Mediated solutions review
Sponsor	Mariette Hughes, Head Ombudsman
Status	OFFICIAL

Executive summary
<p>The OLC Board asked the Executive to run a mediated solutions pilot in order to understand any potential benefits to the organisation. The Executive has considered a number of approaches to mediated solutions, to enable the Legal Ombudsman to resolve cases without the need for a full investigation.</p> <p>The initiatives have seen some success, and have provided valuable insight as to how our business process could be improved moving forward. This paper sets out the outcomes of the initiatives that have been trialled as part of the pilot.</p>
Recommendation/action required
Board is asked to NOTE the approach and the next steps.

Mediated solutions

Mediation

1. This pilot offered parties the opportunity to take part in a mediation session which took place over the phone using a trained mediator. The overall success rate of this pilot is 4%.
2. Only 10% of service providers contacted were interested in mediation, and on occasion the customer did not then wish to participate. The proportion of cases where both parties agreed to try mediation was 8%, and 50% of these resolved successfully.
3. Offering mediation to all newly created files in the pre-assessment pool going forwards would require at least two full time administrators, and 1.5 mediators. This would result in a maximum of 24 files resolving through mediation each month, without the need for a full investigation.
4. The resource requirement exceeds the costs of employing investigators to resolve an equivalent number of cases per month. Furthermore the time taken to contact parties and attempt to arrange mediation increases the customer journey in the cases that do not successfully mediate. The Executive consider that there are insufficient benefits to offer mediation as part of our standard business process and do not therefore intend to proceed with mediation at this stage.
5. The mediator employed as part of the pilot is preparing an account of her experiences of mediation as the project lead, including the key factors which impact the decision of a firm as to whether or not to mediate and her insights into how mediation may be adapted in the future to be of benefit to the organisation.

Shuttle

6. Service providers were contacted directly and asked if they wished to increase their first-tier offer to resolve a complaint. If so, this was communicated to the complainant in the hopes of reaching an agreement. The overall success rate of this pilot is 2%.
7. 14% of service providers were keen to discuss the pilot, however only 6% of service providers contacted were then willing to make an increased offer to attempt to resolve matters. The improved offers were accepted in 2% of cases. It should be noted that there are a number of files where an improved offer has been made and a final outcome is still pending between the parties.
8. The level of resource required to offer shuttle negotiation on all newly created files as standard is disproportionate to the success rate. However, the service providers

contacted appreciated being made aware that a complaint had been brought to the Legal Ombudsman, and service providers who were willing to make an increased offer appreciated the ability to have the Legal Ombudsman communicate this on their behalf.

9. In addition, a further 5% of files contacted resulted in the service provider making us aware that they considered the complaint to be resolved, out of jurisdiction, or suitable for dismissal under Scheme Rule 5.7. This is important information which can support the early resolution or dismissal of a file.

Nudge

10. Service providers were provided with the Legal Ombudsman's guidance on reasonable service and remedies, and made aware that a complaint had been brought to us. This initiative did not require the service provider to make further contact with LeO unless/until the matter was resolved.
11. It is not possible to fully report on the impact of this initiative until the cases in question are taken for investigation, at which point it will become apparent whether the parties have resolved matters between themselves.
12. However, direct correspondence was received on some cases, with 2% of cases advising that they would be inclined to make a further offer, 2% advising that they considered the matter to be resolved already, and a further 5% providing us with some additional information on the complaint and their views on it.
13. Feedback from service providers mirror that received in the shuttle initiative, namely that service providers value the additional opportunity to try and resolve the complaint themselves, and appreciate being advised that the matter has been escalated to LeO.

Conclusions and next steps

14. There are improvements that can be made to our early engagement with service providers and the information we provide to them. This may encourage earlier resolution between the parties without the need for a full investigation, and may improve the standard of information available on file once a case is taken for investigation.
15. The Executive will consider how best to integrate the learning from the shuttle and nudge initiatives into our front end business process, in order to encourage early resolution of complaints and to improve customer experience.
16. The insights from the mediator will be considered and evaluated and any further opportunities will be presented to Board. A Board Report will be produced in November on any changes implemented as a result of this.