

<i>Meeting</i>	OLC Board	<i>Paper No.</i>	107.14
<i>Date of meeting</i>	28 September 2020	Item presented for information	

<i>Title</i>	<b>Horizon Scanning – September 2020</b>
<i>Sponsor</i>	Rebecca Marsh – Chief Ombudsman
<i>Status</i>	OFFICIAL
<i>To be communicated to:</i>	Members and those in attendance

<b>Executive summary</b>
<b>Recommendation/action required</b>
Board is asked to <b>NOTE</b> the update and analysis provided.

## Impact categories

**High** – this issue has the potential to alter our day-to-day operations within the next year and may require a direct response.

**Medium** – this issue could necessitate policy development on an issue; it may affect the environment in which we operate and/or is likely to affect us directly within the next three years.

**Low** – this issue may have an effect on our stakeholders but is unlikely to require any action from us and/or the issue is unlikely to develop for five years or more.

## Horizon Scan – September 2020

### Overview

*Likelihood score refers to how probable it is that this impact will hit us (at the level identified). Demand is effect on complaint volumes.*

Issue	Impact	This will affect...	Likelihood (1-5)	Demand
Impact of COVID-19	High	Complaint volumes and mix of complaints	3	uncertain
Competition and Markets Authority sector review	High	Requirements for transparency and discussions about redress	2	n/a
Professional Indemnity Insurance	Medium	Complaint volumes and consumer ability to access redress	2	↑
Responses to the Practising Certificate fee survey	Medium	Discussions around business planning and budgets	2	n/a
Transfer of CMC's from FCA regulation	Low	Complaint levels	5	→
ACCA – withdrawal from legal regulation	Low	Who regulates ACCA members	5	→

## Details

➤ *High impact*

### Impact of COVID-19

In the last horizon scanning report it was highlighted that there had been some significant shifts in legal transactions during the lockdown period, most notably in personal injury and residential conveyancing, and that the impact on small law firms and barristers chambers was likely to be significant.

Recent discussions with stakeholders indicate further changes particularly in the conveyancing market. The introduction of a stamp duty land tax holiday until March 2020, and pent up demand from the lockdown period, means that the housing market has been buoyant over the last couple of months. This is positive for the conveyancing sector however we are also aware that this may bring risks such as complaints from those who miss the cut-off for stamp duty (as experienced in previous SDLT holidays), and the volume of work for providers who are trying to recover from the lockdown period, but at the same time balancing returning staff, picking up a backlog of work and also providing a reasonable level of customer service.

We will continue to monitor the impact of changes such as these in the market as the complaints time lag mean that these issues are yet to come to us. It is still difficult to determine the overall level of complaints however it may be likely that the mix of complaint types begins to shift later in the year.

### Review of the legal services market

The Competition and Markets Authority (CMA) have announced their expected follow-up review of the legal services market and have begun with a request for inputs from the sector.

In the first report the CMA made recommendations to industry regulators to improve transparency by legal firms on price, quality and service, and to enable customers to navigate the market more easily and get value for money. They also made recommendations on regulatory reform, including to the Ministry of Justice to consider whether consumers of unregulated services need stronger protections and to review the regulatory framework for the longer term.

The review intends to assess progress in the sector and will look at how stakeholders have taken forward work on transparency and what more should be done individually and as a sector. The review is also likely to build on Professor Mayson's review into [Legal Services Regulation](#), and pick up on the LSB's intended review into reserved activities, and provides an opportunity for the Legal Ombudsman to contribute to discussions around the future of redress for the wider legal sector.

➤ *Medium impact*

### Professional Indemnity Insurance (PII)

The solicitors market is fast approaching the October PII renewal round. In the last horizon scan we highlighted that the Solicitors Indemnity Fund (SIF) which was due to close has been extended for a further 12 months. However there are concerns about this round of renewals particularly in relation to affordability and availability for providers. There is a general view that the PII market is hardening and the challenges faced by some firms over recent months will exacerbate their ability to obtain appropriate PII cover.

This could have an impact on complaints if lack of cover leads to firms closing and/or merging with others. It could also have an impact on consumers ability to obtain redress if something has gone wrong with their service. We have spoken with the Law Society about this and identified some ways we can support their work with firms who are closing/merging.

### **Practising Certificate Fee**

Earlier this month the Law Society revealed the results from their Practising Certificate fee survey. Of note the responses appreciated the stability of the fees in recent years but that the fees were expensive and that there should be “*more openness and transparency about what each organisation does*”. Some questioned the split of fees with bodies such as the Legal Ombudsman. Respondents also felt that the fee should be reduced in recognition of the impact of Covid-19.

It is important that we recognise and take into account the views of the sector as we develop next year’s business plans.

- *Low impact*

### **ACCA withdrawal from legal regulation**

In August the Association of Chartered Certified Accountants (ACCA) announced plans to withdraw from legal regulation of probate services, with a view to transferring oversight of those firms and individuals who were regulated to CILEx Regulation.

ACCA currently has 54 firms and 66 individuals that it authorises for probate work, however there have been minimal complaints about their members so far therefore the impact on complaints will be minimal.

### **Transfer of claims management companies from the FCA**

In an earlier horizon scan the transfer of a CMC company from FCA to SRA regulation was noted. Further discussions with regulators has indicated that there have been a handful of applications for CMC firms to change regulatory framework.

## **Recent research**

**LSB Prices research:** The LSB has recently published the third wave of [research](#) on the prices of legal services commonly purchased by individual consumers, and focuses on conveyancing, divorce and wills, trust and probate. This research comes after the transparency rules which were introduced in January 2019. It showed that:

- There is a wide dispersion of prices (as previously reported),
- Price transparency has improved in general with 40% more providers displaying prices online than in 2017,
- Geographical location impacts price with firms in the North of England being 20% cheaper and those in Wales being 27% cheaper,
- Those providing fixed prices were on average 35% cheaper than those using estimates.

**SRA First tier complaints research:** This is the second [annual report](#) on first tier complaints and highlights that firms are now resolving a higher proportion of first tier complaints.

## Consultations and publications

- LSB:** The LSB will publish a State of the Legal Sector report in the autumn which will be a pre-cursor to consultation on their 2021-24 strategy at the end of this year.
- CMA:** The CMA review of legal services regulation will run until the end of the year. We have been asked to respond to their call for inputs by 30<sup>th</sup> September.