

<i>Meeting</i>	OLC Board	Item Presented for Information Paper No. 106.13
<i>Date of meeting</i>	27 July 2020	

<i>Title</i>	Horizon Scanning – July 2020
<i>Sponsor</i>	Mariette Hughes
<i>Status</i>	OFFICIAL
<i>To be communicated to:</i>	Members and those in attendance

Executive summary
<p>The horizon scan focuses on the potential impact of COVID-19 on the legal sector and complaints handling and the publication of the Independent Review of Legal Service Regulation.</p> <p>It also looks at the forthcoming consultation and publications (such as the LSB strategy and the CMA review) both of which can be significant and which we will wish to engage.</p>
Recommendation/action required
Board is asked to NOTE 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 – July 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	3	uncertain
Review of legal regulation: Mayson and LSB reserved activities	Medium	Structure of regulation and role of redress in legal sector	3	↑
Ongoing development of SQE	Medium	Future focus on customer service and interpersonal skills	3	→
Development of Lawtech Sandbox	Medium	Service delivery	4	→
Extension to SIF	Low	Consumer redress	5	→

Details

➤ *High impact*

Impact of COVID-19

There has been a significant decrease in legal transactions in some of the key areas where we receive complaints. In May this year [legal revenue](#) was 12.5% less than last year, and [some firms](#) are still reporting significantly reduced levels of work for example in areas such as personal injury and residential conveyancing. The LSB COVID [data hub](#) indicates a 58% decrease in personal injury claims (between May 19 and 20), and an 84% decrease in Land Registry applications (between April 19 and 20). At the beginning of the lockdown the Law Society and Bar Council shared details of surveys which highlighted that the impact small law firms and barristers chambers was likely to be very significant.

However many in the ombudsman sector consider that there will be an increase in the level of complaints as lockdown ends, and this may particularly be the case for public sector ombudsman. RICS latest [update](#) cautiously indicated that there were signs of recovery in the housing market (up 61% in June versus -7% and -94% in April and May respectively). The LSB COVID data hub shows changes in other areas of law such as employment (67% increase in issues raised via CAB).

It is still too early to determine the full impact of COVID-19 on the level of complaints that the Legal Ombudsman will receive over 2020-21 and into the following year, particularly as there are indicators which point in different directions. By the early autumn we may be in a better position to provide a better assessment of the likely impact on complaints.

➤ *Medium impact*

Legal services reform

Professor Mayson published his review into [Legal Services Regulation](#) in June. As expected there were several key announcements: risk-based regulation, single regulator, independence of regulators and professional bodies. It also envisages a wider role for an ombudsman in the sector which includes own initiative powers. In the short-term the report proposes allowing the Legal Ombudsman to investigate complaints from all providers of legal services.

To date the report has received little media noise – and any pieces so far have focused on the regulatory structure. The Law Society response considered that it was not the right time for changes and that there is scope under the existing legislation to achieve some of the aims of the review. CILEx Regulation wrote a piece for the Gazette which supported refining the regulatory maze. There may be more discussion on the review when the Westminster Legal Policy Forum runs a session in September, however it is unlikely that there will be able changes to the structure in the short-medium term as stated by the MoJ in response to a Parliamentary Question in May.

However the LSB have also confirmed that they will be conducting an internal review of reserved activities this year in order to consider whether a full project should be include in their plans for 2021/22. Changes to reserved activities has the potential to impact the volume of complaints received by the Legal Ombudsman. If taken forward these changes will be a number of years away but we will need to be in a position to work with parties if required.

Solicitors Qualifying Exam (SQE)

There continue to be regular news articles about the SQE and it is clear that many providers are looking at ways to develop their training. There are discussions about the ability to develop their training around the needs of the sector and individual firms. Some are looking at developing their clinical legal education to be a focal point for the SQE, and many point to interpersonal skills being a core area. With recent the experience of COVID-19 many are also looking at how they can integrate virtual learning as well. This could lead to wider recruitment with some looking to international markets and others discussing whether it could have a positive impact on accessibility and diversity.

The impact on complaints is at yet some way in the future but there appears to potential, with a focus on interpersonal skills and greater opportunities for gaining practical skills. There is also opportunity for the knowledge and experience of the ombudsman to inform these areas of the SQE.

Development of Lawtech Sandbox

In June the [LawtechUK](#) vision was announced. This is a £2million government backed initiative and will be delivered by Tech Nation, Lawtech Delivery Panel, and the Ministry of Justice and supported by the SRA, LSB and ICO amongst others. A key element of this is the Lawtech Sandbox – a development and testing environment which will encourage tech business, experts and public bodies to work together to innovate and establish new products and frameworks which could impact service delivery. It also includes a SME Dispute Resolution Platform.

While there has been much discussion about innovation and Lawtech in recent years the changes have been minimal. However the potential has always been there and the pandemic has increased the realisation that different service delivery methods are possible as well as needed.

More changes in Lawtech and service delivery are unlikely to lead to changes in complaint volumes, though some of the changes could lead to the provision of services outside of the existing regulatory framework. It could also have a longer-term impact on consumer expectations of service delivery.

➤ *Low impact*

One year extension of Solicitors Indemnity Fund (SIF)

SIF provides supplementary run-off cover for firms following the end of the mandatory six year run-off period. The fund was due to close to new claims in September 2020 but this has been extended for a further 12 months. Without the additional cover former principals of firms may be personally liable for any claims that are made. It was hoped that a market solution would develop for reasonably priced cover.

The impact on the Legal Ombudsman is minimal however there are a number of occasions where redress for complainants has to be accessed through run-off cover.

Consultations and publications

SRA: 2021/22 Business plan – closes in August 2020

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.

- They have just closed a call for evidence on ongoing competence. The work on this will continue throughout the year with a consultation in Q4 on the policy proposals.

CMA: The CMA review of legal services regulation is likely to commence in Q3 and will consider the progress that the sector has made since their final report in December 2016.

LSCP: Report on consumer understanding of quality indicators, published on 20th July

Appointments, departures and awards

Ministry of Justice: the permanent secretary Sir Richard Heaton will stand down from his role at the end of this summer.