
Strategy Consultation feedback

We received written responses from the following organisations:

- Harrison Clark Rickerbys Ltd
- Law Society
- Legal Risk LLP
- Mortimer Clarke Solicitors
- Neil Howlett – Solicitor
- ProMediate
- Restons Solicitors
- Shoosmiths LLP

This compares to 6 formal responses to last year's strategy and budget consultation. However last year we also held a half-day consultation workshop held in London in January, this was attended by 21 stakeholders.

We also had responses to the 2016 -17 budget consultation from the Law Society, the Council for Licensed Conveyancers and the Legal Services Consumer Panel.

Full copies of all of this year's responses are published on our website.

The main comments regarding each goal are set out below.

Foreword from our Chair

2016/17 will mark the third and final year of our current strategy.

Since we first set that strategy, in 2014, the world has changed considerably. Both of the markets in which we operate have continued to change and develop and we need to ensure that improvements in our service keep pace with this. Issues which emerged from our accounts being qualified for the previous two years have also required the OLC to change and improve and, in addition, during the coming year we will need to play our part in contributing to the spending targets of the Ministry of Justice.

Whilst our ability to develop the Legal Ombudsman service has, of necessity, been limited by other events, we have made some important progress. Permanent appointments have now been made of both our new Chief Executive and Chief Ombudsman and they, in turn, have appointed most of their leadership team. Important work has been done both to improve our understanding of the needs of our customers and to raise our game on the quality of our investigations and decisions. During the past 12 months we have worked hard to embed new technology into our service and now want to exploit the opportunities for improved efficiency which it offers us. In addition we have strengthened the role of our ombudsmen, in their direction of investigations and guidance of our investigators. The successful launch of our Claims Management jurisdiction has allowed us to develop new approaches to providing access to our service, perhaps most notably the following up of complainants who come to us prematurely.

We believe that there is still more that can be done in the coming year to build upon our achievements and intend to sustain the pace of our change and improvement. For example, this consultation document shows how we intend to improve the balance of our performance between completing investigations as in as timely manner as possible whilst providing the highest possible quality. We are currently re-visiting

the way in which we use our policy on publicising ombudsman decisions in order that we can provide clearer information for consumers and, should it prove necessary, important protection. In the same vein, we believe that there is much more that can be done to feed back our learning to the profession and we intend to play a much greater role in helping the profession to drive up standards and in empowering consumers.

Whilst meeting these challenges, we also intend to strengthen our governance as a mainstream, public sector, Arms Length Body and will robustly implement the recommendations from our recent governance review.

We remain concerned at the absence of redress for consumers who choose to obtain legal services from unregulated businesses. It cannot be right that the absence of redress has the ability to act as a competitive advantage to legal businesses which sit within the regulated part of the sector. We hope that the opportunity to correct that imbalance will be taken in any future re-visiting of the Legal Services Act. In the same vein, we welcome the recently announced study by the Competition and Markets Authority and are look forward to cooperating fully with it.

We are also aware that the Claims Management sector is rapidly changing and whilst the impact of tighter regulation will undoubtedly have consequences for this sector, our working assumption remains that Claims Management companies will continue to develop their businesses in line with these changes and that the need for effective redress will continue for the foreseeable future.

Steve Green
Chair of the Office of Legal Complaints

Context

Whilst we made good progress in 2015/16, the OLC's strategic ambitions were, of necessity, impacted by the need to resolve all of the outstanding issues which led to the qualification of our accounts. We expect to have resolved all of those issues by 31 March 2016. This will enable us to refocus on delivering all of our goals as set out in our published 2014-2017 strategy.

In the last year we have invested in developing our approach to quality and it is key that we continue to embed this within the organization. To support this, we have worked with external partners to gain a greater insight into our customers' needs. This has started to help shape our service principles and standards which we will introduce in the coming year.

We know that we need to develop our new case management system and our business processes to improve the customer experience. This will also improve the efficiency of our service.

Through our data, we have access to significant information about complaint handling but we know we have not used this effectively so far to share our learning to feed back to the profession and consumers. This will be a key driver for us in the coming year and beyond.

Last year, we also took the decision to postpone our application to be an Alternative Dispute Resolution (ADR) entity and we will be reviewing our options later this year. We are also keen to do a wider review of our scheme rules and will look to work closely with our stakeholders on this. Alongside these internal factors, we are aware that the external landscape is changing.

As a public sector body, we are subject to HM Treasury and Ministry of Justice spending controls and budgetary savings and we are aware of

our responsibilities to ensure that we rightfully make this a key consideration in all our decision-making.

There is the potential that the Legal Service Act 2007 may be reviewed through the commitment of the Lord Chancellor and the outcome of the Competitions and Markets Authority (CMA) market study. We have already met with the CMA and we look forward to working with them as their work progresses.

HM Treasury and the Ministry of Justice have commissioned a fundamental review of the regulation of claims management companies this is due to report early this year. We also need to be mindful of a number of possible changes to regulatory arrangements across our regulators.

The ongoing development of Alternative Business Structures (ABS) could also have an impact on our service. For example, as firms respond to changing consumer demand by developing affordable alternatives to full-service representation.

What we are planning to do

Our purpose

We exist to improve today's services and tomorrow's industry reputation by resolving disputes impartially, promoting service excellence and being a champion of best practice for the benefit of consumers, providers and in the interests of business and society.

We seek a fair resolution in every individual case by acting impartially, cutting through complexity and analysing the facts to resolve disputes. In doing so we aim to provide timely, evidence-based information to ensure complainants and providers accept and understand our final decision, even if they do not agree with it.

Getting these basics right enables us to do more. What we learn from each individual case enables us to generate thought leadership, to work with a broad range of stakeholders and to champion best practice and improve standards across the sector.

In order to deliver our purpose and to contribute to the regulatory objectives of the Legal Services Act, there are a number of things we plan to do over the coming year:

- Continue to improve our operational efficiency using lean principles to make the most efficient use of our resources and improve our quality ensuring the service we provide to customers is of a high standard.

This will help to meet the regulatory objective of *protecting and promoting the interests of consumers*.

- Continue to drive learning and improved complaint handling across the legal and claims management sectors and better inform consumers of these services.

This will help to meet to meet the regulatory objective of *encouraging an independent, strong, diverse and effective legal*

profession.

- Continue to work openly and constructively with regulators, professional bodies, consumer groups and Government and fully engage in the ongoing debate on the future shape of redress, consumer protection and regulation of legal services.

This will help to meet the regulatory objectives of *protecting and promoting the interests of consumers, improving public access to justice, and encouraging an independent, strong, diverse and effective legal profession.*

Our goals

As part of the work we carried out to develop our strategy in 2014 we identified four key goals. We believe that these goals continue to reflect our broader purpose and operational priorities and do not propose to make any changes to them for the coming year.

This means that we propose that our continuing goals should be:

- **To continue to improve our efficiency**
- **To implement changes to our jurisdiction**
- **To help create an improved complaints handling system**
- **To disseminate what we have learned more widely**

To help make our goals more meaningful we have set out in the following section:

- What each goal means in practical terms
- Our long-term view of what they are intended to deliver
- Examples of the actions we plan to take to make this happen over the coming year

Goal 1: To continue to improve our efficiency

This means:

- Looking for further opportunities to improve our efficiency and reduce costs
- Improving the customer experience through the quality of our approach
- Being held accountable by setting and publishing challenging annual KPIs
- Demonstrating improvement internally and externally
- Engaging our people so that they can all play their part in developing and improving our systems and processes
- Expanding our partnerships and insight to grow our understanding of best practice, challenge our thinking, learn about the latest innovations and benchmark our performance

With a view to:

- Being a high-performing organisation where everyone sees it as part of their role to deliver year-on-year improvement and find ways of doing things better
- Understanding, meeting and striving to exceed the expectations of our diverse customers and stakeholders
- Being efficient and mitigating our costs to the profession without compromising quality and acting as a model for other sectors
- Using the quality and efficiency of our services to explore additional services we can offer for consumers to access redress

To do this we will:

- Build on the introduction of the new customer relationship management system we introduced last year to maximise technological opportunities to improve the service we offer
- Continue to embed a customer-centric ethos through our commitment to a high quality service
- Continue to refine our business process using lean principles to improve the time we take in resolving complaints
- Continue to attract a diverse workforce and increase staff engagement and motivation
- Implement and further develop the new key performance indicators alongside the additional internal measures to monitor our performance
- We will always look to make the best use of our resources

What our stakeholders said:

- Improvements to LeO's processes would be welcome; particularly keen to see vexatious complaints excluded earlier.
- Welcomed LeO's 'customer-centric ethos'; if indeed this applies to solicitors as well as complainants.
- Suggestion of undertaking an equality impact analysis on staff changes.
- Looking forward to seeing LeO's new suite of KPIs and tracking progress over time.

We welcome our stakeholders views on this goal, we are already incorporating improvements to our process and undertaking equality impact analysis on staffing changes as part of our existing business process. Embedding our customer-centric ethos applies equally to consumers and service providers. We look forward to working with stakeholders over the next 6 months on the progress of our new suite of KPIs.

Goal 2: To implement changes to our jurisdiction

This means:

- Ensuring effective delivery of agreed changes to our jurisdiction. The key deliverable in our three year strategy was introducing Claims Management Companies which we have successfully done and continue to embed
- We will continue to working to identify other areas of consumer detriment where the extension of our jurisdiction could provide an effective remedy
- Ensuring that changes to our jurisdiction have no negative impact on our core business and that costs are apportioned and accounted for appropriately

With a view to:

- Using the successful delivery of changes to our jurisdiction as a platform to provide more consumers and providers with access to high quality, informal and speedy redress
- Working with providers in those markets to help them understand the role of the Ombudsman, to improve first tier complaint handling and prevent complaints from arising in the first place
- Achieving greater economies of scale so that unit costs across all areas of work can be reduced

To do this we will:

- Consider further the options to be an approved ADR entity
- Continue to work with Government and other stakeholders with the long term objective of providing consumers with access to appropriate redress
- We will explore the option of dealing with third party complaints through further analysis of internal and external data
- We will review the nature of premature complaints and opportunities for how we can support customers and service providers in the handling of these

What our stakeholders said:

- Do not feel we should retain this goal – it would not be appropriate to presume the need for, nor prioritise, further changes.
- If CMCs are regulated by the FCA then complaints about them should be transferred to the Financial Ombudsman.
- Welcomed constructive information and advice on improving first tier complaints procedures in order to avoid complaints reaching LeO.
- On Voluntary jurisdiction there was interest in knowing how this is currently being funded and how it will continue to be funded in the future.
- Arguments on establishing a voluntary jurisdiction to cover unregulated legal services have been made redundant by the implementation of ADR regulations.

What our stakeholders said, ADR:

- Undertaking this would be fundamentally incompatible with the scheme rules and the regulatory interface.
- Agreement also existed that the LeO should review their application to become an ADR entity.
- Any future proposals should be accompanied by a financial impact assessment so that solicitors and interested stakeholders will be able to see how the profession would stand to be affected.

What our stakeholders said, Third Party Complaints:

Many of the stakeholder responses expressed concern around this area of work.

- There could be significant negative unintended consequences associated with such a change, the most important being that it would create an additional duty for solicitors.
- Such change should be opposed in the strongest possible terms. It would be contrary to the regulatory objectives in section 1(1) of the LSA 2007. In particular, it would stifle the independence of the legal professions and inhibit the promotion of, and adherence to, the professional principles.
- The proposal for extension of jurisdiction is therefore a real threat to the regulatory objectives and principles, as it would inhibit the ability of lawyers to act independently and in the best interests of their clients, and it is difficult to see as being other than an unwelcome attempt to make good a reduced caseload of complaints by fuelling the perception of a compensation culture⁴ with a diet of complaints, many of which may be wholly unworthy but made in order to stifle an opponent. This, ultimately, would inhibit access to justice.
- Concern that this had already been specifically rejected by the Legal Ombudsman.
- It is unclear why the extension of a widespread jurisdiction would improve both professional standards/ consumer protection. Further individual cases should not, without more evidence, form the basis of professional rule changes.
- If Third Party complaints was adopted the proposal should be confined to progress the work identified by the Legal Ombudsman in November 2012 (page 14 of its report) i.e. producing “ a specimen list for consultation where there is no conflict of interest between the complainant and the person who engaged”.
- A very real concern that disaffected consumers will look for any opportunity to complain, even where there are no grounds for such complaint.
- If the consumer already has a right of redress, it would be unfair if they were given additional rights, for example customers of FCA regulated firms – if a law firm is providing debt recovery services to an FCA regulated firm it would be unfair for customers to be given additional rights of redress.
- That does not help to meet the regulatory objective of protecting and promoting the interests of consumers. Third parties are for the most part likely to be by choice non-consumers.
- If all third party complaints were given the right to complaint to the Legal Ombudsman, there is a danger that this would open the floodgates to vexatious and frivolous complaints from opposing and disgruntled litigants.
- There is a real risk with regard to third parties that solicitor firms could become unfairly overburdened with dealing with vexatious complainants if they have to follow their formal complaints procedure every time.

The OLC has a duty to act in a way it thinks most appropriate for the purpose of meeting all of the regulatory objectives

The responses received on Third Party outweighed all other areas of response. It is obvious that there is great concern from the profession on how this activity would be implemented. This has been a part of our strategy for three years and a previous working party had identified many of the concerns outlined. These concerns were discussed by the OLC, who remain keen to make a final decision on this issue in this new financial year. The responses sent into this strategy consultation will be considered alongside the concerns raised by the working party, we will progress with this area of work to enable the OLC to make a final decision on the issue.

On CMR regulation and where redress sits this will be dealt with by central government throughout this year and we will feed into these discussions and any future consultation.

On the voluntary jurisdiction points, we will continue to engage with Competition and Markets Authority and await the outcome of their report on this point. The current level of work being undertaken is very limited – and would follow on work after a decision on ADR and building options for a new Legal Services Act. No work will be carried out on proposing or designing a Voluntary Jurisdiction until a separate and distinct funding stream has been identified.

The OLC will take a decision later in the year on becoming an ADR entity. Therefore, the work currently set out in the strategy document will remain.

Goal 3: To help to create an improved complaints handling system

This means:

- Exploring different ways of effective dispute resolution
- Driving up efficiencies and reducing costs
- Contributing to and promoting the regulatory objectives of the Legal Services Act

With a view to:

- Providing a range of relevant, tailored and appropriate services within the scope of the current ombudsman scheme and identifying opportunities to build on this to reflect the changing nature of the market place
- Building consumer confidence in how the legal and claims management sectors handle complaints and provide redress

To do this we will:

- Consider the options for development of alternative dispute services, which could include consideration of methods of resolution which we do not currently offer (for example mediation and first-tier complaint support)
- Develop service standards building on our customer service principles to underpin the customer experience
- Review our communications to ensure that we use plain English
- Conduct research to provide insight both internally and externally on good complaint handling
- Explore further revisions of our scheme rules, including consideration of our case fee structure

What our stakeholders said:

- Welcome the proposal to develop service standards, as this will provide clarity for both professionals and clients as to the service levels they can expect from the Legal Ombudsman.
- Welcome the existing guidance and training provided by the Legal Ombudsman and encourage the Legal Ombudsman to enhance its offering in this area.
- Agree with considering options for development of alternative dispute services and proposes offering independent telephone mediation from an external provider.
- The Legal Ombudsman suggests developing alternative dispute services such as mediation or first tier complaint support. The strategy document provides limited information about why this is being considered, the likely cost of offering such services and the demand. We would welcome more information about this.
- Expressed support for the "polluter pays" principle and free cases.

Stakeholders supported the work set out in this goal area and we look forward to working with them on the developments of this area and providing information about the work as it progresses.

Goal 4: To disseminate what we have learned more widely

This means:

- Feeding back learning from our work to the profession, consumers and policy makers
- Engaging with stakeholders about the best ways of delivering redress, empowering consumers and supporting the delivery of quality services

With a view to:

- Creating an environment where there is a clear, effective and efficient system of consumer redress
- Ensuring that the lessons learned from resolving individual disputes are used to promote improvement in service provision

To do this we will:

- Improve our internal research capability to enable us to provide more detailed learning to service providers
- Continue to identify key areas of service failings and use this to feedback to service providers
- Undertake research to identify best practice on first tier complaint handling to support service providers
- Work with regulators and professional associations to share our learning and look at ways to deliver this directly to service providers
- Continue to deliver educational events for service providers
- Review the content of our website to improve the sharing of our knowledge

What our stakeholders said:

- Support the Legal Ombudsman's plans to feed back its learning to stakeholders and, in particular, the Profession
- Concerns about some of the research planned by the Ombudsman given the work being undertaken by the Legal Services Board, Professional bodies and front line regulators, as there is the potential for duplication of effort.
- Commended any efforts to make the website easier to navigate.

Again we welcome stakeholders points on this goal and look forward to working with them on feeding back to the profession and improving our website. Regarding research we participate in the Regulators Research Forum to help ensure that our work does not overlap.

Stakeholder points not associated with one of the four goals

- Need to work on consistency so that all their investigators reach similar decisions based on similar circumstances.

Suggestion of a further priority should be the reform of LeO's governance following the expected report.

- The LeO needs to put its own house in order before expanding its empire, specifically:-
 - Accounts, which have damaged the credibility of the LeO
 - ADR which has damaged the credibility of the LeO and created an unsatisfactory situation for the profession which is wholly down to the LeO
- LeO already has challenges on dealing with CMCs and ABS's
- LeO should not be considering any expansion of its jurisdiction until has demonstrated the competence and capacity to deal with existing problems and workload. Cannot see that being achieved in the next year.
- Agree with strategy and proposal as set out – but don't believe that improving complaints handling across the legal sector does necessarily require LeO to widen its own jurisdiction.
- Developing clearer signposting of complainants and ensuring clients are given advice as to their right to complain to a third party complaints handling organisation, particularly where ombudsman's jurisdictions overlap should be produced. Alongside clear guidance on how LeO would proceed on these jurisdictional issues.

We are grateful to stakeholder's views, whilst these areas of work do not effect a change of this year's strategy we note the views. Over the next year as part of our ongoing work we will be looking at improving consistency of decisions, and governance work is also continuing in partnership with the LSB and MoJ. Regarding the point on clear signposting where ombudsman's jurisdictions overlap we will look at developing this as part of work under goal 3 'To help to create an improved complaints handling system'.