Meeting	OLC Board	Agenda Item No. 4	
	OLC Board	Paper No.	123.3
Date of meeting	20 October 2022	Time required	15 minutes

Title	Service Complaint Adjudicator – bi-annual update	
Sponsor	Steve Pearson – Deputy Chief Ombudsman	
Status	OFFICIAL	

Executive summary

The attached paper is the external service complaints adjudicator's (SCA) mid-year report for 2022/23 and reflects on the complaints that have been escalated to her for Stage 3 review over the last six months.

The SCA reflects positively on the work done by the service complaints team in identifying where there have been shortcomings in service and providing constructive feedback both to individual members of staff and the organisation as a whole.

The SCA notes that numbers of new service complaints are relatively low and therefore caution should be exercised in drawing definitive conclusions from the last 6 months. However, based on activity over the last 6 months, levels of new service complaints raised at Stage 1 of the LeO process look broadly consistent with the last two years. The proportion of those complaints escalated to Stage 2 has dropped which reflects very positively on the work done by LeO's customer experience specialists. The levels of complaints then being escalated from Stage 2 to Stage 3 currently seems broadly consistent with levels seen in 2020/21.

In terms of areas for further work and improvement, looking forwards, the SCA reflects on the importance of managing the expectations of customers who are using the service complaints process as a means to try to overturn an unfavourable outcome to a legal service investigation.

The SCA also reflects on the fact that delay, both at the start of our process and during an investigation, remains a common theme but also now notes that resourcing constraints within the service complaints team itself risk causing further delays during the investigation of service complaints.

Recommendation/action required

Board is asked to **NOTE** the paper.

Service Complaints Adjudicator's Mid-Year Report 2022/2023

Introduction

- 1. This report sets out a summary of matters arising from the cases I have dealt with at Stage 3 of the service complaints process since April 2022, and an overview of service complaints more generally during this period (Annex 1).
- 2. Six cases have been referred to me, and I provide a brief summary of the issues in Annex 2. One complaint was made by a legal service provider, and five by consumers of legal services. The main matters complained of relate to delays (both in the lawyer complaint and service complaint) and the level of compensation offered for poor service. In four of the six complaints, the customer either completely rejected, or was not particularly happy with, the final decision in the lawyer complaint. Sometimes this dissatisfaction, in my view, drives service complaints. Where the customer has waited many months for an investigation, and then the outcome was not what they hoped for, they may wonder why they waited for so long, to 'achieve' so little, and complaints about delays may be made. Most cases have had a clear focus around a small number of complaints.
- 3. Remit of both the service complaints process, and the LeO in investigation of lawyer complaints, are matters that have arisen within the cases I have dealt with. Whilst both complainants were people who are it seems, by nature, persistent, I have identified a need for the Service Complaints Team to say 'no' on occasion, in appropriate cases. I have also recommended that the LeO consider whether there may be value in looking at managing expectations, given the time and resource involved one particular case, before it reached me.

Areas for service improvement/development

- 4. Areas I have identified for review by the Service Complaints Team are:
 - Assessment of impact on the customer of poor service identified. In two of the six cases, I was in agreement with previous stages as to the unreasonable service, but I concluded that the compensation offered did not reflect the impact on the customer;
 - I have picked up a lack of consistency in approach, both within the Service Complaints Team, and between that Team and Team Leaders who respond to complaints at stage 0, as to whether the unavoidable delays all customers face whilst awaiting investigation, amount to poor service. I am working with Mrs Handley to agree on a consistent approach going forward.

Overall Impression

- 5. I am pleased to report that I have seen an improvement by the Service Complaints Team, in light of observations I have previously made, in maintaining a focus on the specific complaint made, when deciding whether complaints are upheld. Last year, I identified that on occasion, a complaint would be 'upheld', but the poor service identified was a different issue to the complaint made. This has not been the case in the last six months.
- 6. The Service Complaints Team has continued to identify gaps or shortfalls in service, and provide feedback to those involved with a view to improving service. I continue to see complaints being used constructively to aid service development and overall customer experience. I have again found the standard of investigation, both in identifying and clarifying service complaints, and the depth of the investigations, to be high. This is evidenced through the proportion of service complaints successfully resolved at stage 1.

Susan Bradford Service Complaints Adjudicator

Annex 1 - Service Complaints Workload

Year	Number of	Number of	Percentage	Number of	Percentage
	complaints	complaints	Stage 1 to 2	complaints	Stage 2 to 3
	Stage 1	Stage 2		Stage 3	
2016/17	118	51	43%	21	41%
2017/18	129	42	32.5%	20	47.5%
2018/19	183	45	24.5%	28	62%
2019/20	164	51	31%	36	70.5%
2020/21	91	39	43%	23	59%
2021/22	99	28	28%	12	43%
Year to d	Year to date:				
2022/23	53	10	19%	6	60%
Q1&Q2					

- a. The number of service complaints made in the first half of this year is similar to the last two years, showing only a marginal increase. The stage 1 responses I have seen have been clear and dealt with concerns raised in a transparent and proportionate manner. This quality, which the data suggests is across all complaints, has been effective in reducing the number of service complaints escalated to stage 2. The 19% escalated to stage 2 in the year to date is a fairly significant reduction on last year, which in turn was a notable reduction from the year before.
- b. However, more than half of those escalated to stage 2 progressed to me at stage 3. Given the small numbers, I am cautious about drawing any firm conclusions from this. I am not of the view that this has been due to shortcomings in stage 2 responses. Rather, I simply highlight that two of the six cases I have seen have been from customers for whom the service complaint process was never going to achieve the outcome they sought, because the issues they raised went beyond the service complaints remit.

Annex 2 - Service Issues

Reference	Number of stage 3	Upheld	Service issues
	complaints		
SC-0741	4	3	Email sent to old address so the customer was not aware the legal complaint had been dismissed. Dispute regarding LeO assessment of impact of service failures, and consequently, compensation. Stage 2 award £50. I awarded £400
SC-0680	14	2 in full 1 in part	Delays, lack of updates and lack of accurate information about expected wait times on website. Long process for customer, compounded by conduct of lawyer who challenged LeO jurisdiction twice and then judicially reviewed final decision. Complaint included that compensation offered was insufficient. Customer not really happy with final decision, but accepted it. Stage 2 award £800. I recommended reoffering, in fairness to customer. My analysis was that the impact fell into the 'significant' award category, up to £750.
SC-0656	6	1 in full 1 in part	Customer incorrectly informed that there would be an opportunity to comment on the final decision, with the potential to influence that decision. Delays in service complaint responses. Customer not in agreement with final decision. Incorrect advice had been remedied by customer being offered opportunity to comment on final decision, but had not taken this up. Stage 2 awarded £100. I agreed, as there was some genuine confusion when, on the day the above offer was confirmed by email, an 'assumed rejection' email was also sent.
SC-0691	8	1 in full 3 in part	Delays in lawyer complaint investigation and service complaint process. Factual error in key aspect of final decision meant that customer instructed a second lawyer to initiate a judicial review challenge. That led to

			withdrawal of the decision and a second investigation. Customer not entirely happy with second final decision, but accepted. Believed more compensation due. Stage 2 compensation £200. I recommended £400.
SC-0696	0	0	Disagreement with final decision. Service complaints were extracted from customer's initial correspondence, and considered at stages 1 and 2. I could not deal with any of the matters the customer asked me to, as they were not service complaints. No compensation offered at any stage of the service complaint process.
SC-0718	17	1	Delay in allocation to investigator. Short delay in escalation to me. Customer requested compensation. Agreed outcome reached quickly in lawyer complaint, once allocated to an investigator. No compensation offered at any stage of the service complaint process. I agreed.

Remit

- i. I have referenced in the complaint summaries those cases in which the complainant was unhappy with the decision in the lawyer complaint (4 of 6 cases). The Service Complaints Team has, in the main, been clear as to the matters that fall within and outside the service complaints process. However some customers appear to seek escalation in the hope that they will get a review of their entire case.
- ii. One complaint was entirely focussed on disagreement with the ombudsman's decision in the lawyer complaint, and whilst two service complaints had been extrapolated from what the customer had said, the matter should not, in my view have been accepted as a service complaint. It is not an efficient use of resource to accept, and then escalate a matter, purely as the customer has requested this. The customer will not be satisfied with my report, because I could not address the matters he raised. Accepting matters into the service complaint process, when the process cannot deal with the issues the customer raises, can only serve to raise expectations, that will ultimately not be met. The risk is increased dissatisfaction at the end of the process.
- iii. Management of expectations is an issue that came to the fore in one of the cases that I have adjudicated on in this period. The complainant came to the LeO with an

expectation that it would be able to put an end to legal proceedings, and/or enable the complainant to secure representation in another jurisdiction. Information was provided from the outset as to the LeO's remit. However, by the end of the process, the complainant was of the view that LeO's delays had caused significant detriment. This was not the case, as the LeO could never have influenced legal proceedings, which was what the complainant was looking for.

Delays

iv. Delays have been a common complaint theme, in view of the time customers have waited in recent months and years for their lawyer complaint to reach the investigation stage. This year, in contrast to last, I have seen that customers have also waited many months for their service complaint to be investigated and responded to at both stages 1 and 2. The Service Complaint team is small, and has suffered with staff absences. This has impacted significantly on customer experience, particularly as stage 2 responses fall to a single member of staff. These delays have been unavoidable, due to limited resource in the team. However, they adversely impact on the overall experience of customers who are already dissatisfied with the LeO's service.

Compensation

v. One case came to me because the customer wanted compensation, which had not been offered, and which I did not offer, as the only area in which service had fallen short was the unavoidable delay in the case being allocated to an investigator. In three cases, the customer believed that the compensation offered at stage 2 did not reflect the impact on them. In two of these cases I agreed. The previous analysis had focussed more on the severity of the service failures, which in themselves would not usually warrant more than a modest level of compensation. However I concluded that the actual impact on the customers, taking into account their individual circumstances, warranted a significant sum. (I use 'modest' and 'significant' here in accordance with the LeO's remedy guidance).

Recommendations

- vi. In addition to recommendations in relation to apologies, feedback to an individual, and compensation, I have made the following recommendations in this period:
 - I recommend that the Service Complaints Team reviews its approach to the duty on a complainant to mitigate the impact of identified poor service. There will be cases where this can be expected, and a review of guidance may assist.
 - I recommend that the Service Complaints Team reviews its threshold for accepting cases for investigation, and does not accept matters that are in

fact a challenge to an ombudsman's decision, brought under the guise of service issues.

- I recommend that the LeO carefully reviews its website to ensure that it provides unambiguous and accurate information for customers with regard to both wait times for investigation, and the time average investigations take.
- I recommend that the LeO considers whether there would be value in analysing, to see if there is a need to address, how customer expectations are managed in cases where a customer repeatedly expresses expectations which are outside of the LeO's remit, in relation to outcome.

Service Complaints Adjudicator's Annual Report 2021/22

Introduction

- 1. This report sets out a summary of the outcomes and matters arising from the service complaints I have dealt with in 2021/22.
- 2. This year has seen a notable reduction in the number of complaints escalated to stage 3, both in absolute terms, and in the proportion of stage 2 complaints that remain unresolved. Annex 1 provides a summary.
- 3. 12 cases have been referred to me, and I provide brief summary of my recommendations, alongside action taken by the LeO, in Annex 2. Ten complaints were brought by (or on behalf of) users of legal services, and two by service providers.
- 4. In the cases escalated to me, I have considered 76 separate complaints (including requests to review compensation), of which I have upheld or partially upheld 13. This is not to say that I found 13 instances of poor service which had not previously been identified or upheld. Some complainants asked me to review their entire complaint, not just the aspects not previously upheld. A breakdown is provided in Annex 2.

Complaint Themes and Areas for Service Improvement

- 5. Of the matters referred to me, a key focus in 7 cases was disagreement with the decision in the lawyer complaint. In two of these I was not asked to address subsidiary service complaints, and I had to simply say that I could not assist the complainant, as the matters raised were outside the scope of the service complaint process. In each of these complaints, the remit of the service complaints process and its limits having been clearly set out, on more than one occasion, before the matter reached me. However some customers nevertheless requested escalation, in the hope that it would change the outcome in their lawyer complaint.
- 6. Four of the cases escalated to me related solely or primarily to a request that I review compensation. In these cases, I did not take a different view to earlier stages and did not recommend that previous offers were increased.

- 7. Delays have been a common theme, due to resourcing issues within the LeO, however delays have not been the primary focus of the complaints I have seen.
- 8. Communication was the key theme of one complaint, and whilst I did not uphold the complaints made, I identified the need for service improvement and made recommendations around early identification of needs and reasonable adjustments. Communication has featured in a number of complaints, and I have made recommendations around changes to standard wording, to enhance clarity going forward.
- 9. One complaint made by a legal service provider consisted of 42 separate complaints, all of which he asked to be addressed at Stage 3, notwithstanding that a number had been upheld at earlier stages. I upheld fewer than had previously been upheld, as the complainant could (and should) have taken responsibility for the consequences of his own actions. I have recommended that the service considers implementing a 'vexatious complaints' policy in view of this conduct. That could include grounds to refuse escalation, such as where the outstanding matters relate to the decision in the lawyer complaint, and are not service complaints.
- 10. Given that the majority of matters escalated to me stem from dissatisfaction with the decision in the lawyer complaint, or disagreement with the compensation offered in respect of service failings identified, there is little that I can suggest the LeO does to reduce such complaints. I have made recommendations around taking care to ensure the service complaints team does not stray beyond its remit, albeit that this is rare, and that the LeO review some aspects of standard wording, for clarity, in the lawyer complaint process.
- 11. It is commendable that the service complaints team actively identify areas for learning and service improvement through the complaints process. I have on occasion added to these through recommendations, which the LeO has been receptive to. A reflection of the LeO's commitment to learning from complaints is that all my recommendations have either been implemented, or will form part of wider reviews of service improvement in the coming year.
- 12. I am advised that a full review of the service complaint process and remit is planned. This will include taking into account the feedback that I have given on ensuring clarity about the service complaint remit and not straying into conclusions that comment on, or have already been considered in an ombudsman's decision. The review will include looking at the stages of the internal process, remit, remedies, staff guidance and the customer factsheet.

Overall Impression

- 13. I have been impressed by the open and transparent approach taken by the service complaints team, and the fact that the service complaints process is used as a vehicle to drive service improvement. I have found the standard of investigation, both in identifying and clarifying service complaints, and the depth of the investigations, to be high.
- 14. An observation, that I would encourage the LeO to reflect on, is length of time the service complaint process takes. The fact that there are three, or on occasion four stages to the process, means that complainants who escalate their complaints to me are often weary and find the process to have been long and drawn out. I can empathise with this. The complaints process necessarily lasts a number of months, as there are two formal stages before escalation to me, and on occasion this is after local resolution has been attempted at 'stage 0'. The LeO may wish to give consideration to reducing the number of stages. It must be borne in mind that customers who make service complaints usually do so at the end of an investigation into a complaint about a legal service provider, which itself has taken many months if not years. Reducing the number of stages may be something the service wishes to consider as part of the forthcoming review of the service complaint process. Some complainants have requested escalation to me from the outset, and whilst it is only fair that the LeO is given opportunity to resolve matters in the first instance, I anticipate that the majority of cases I see would be escalated to me in any event.

Susan Bradford Service Complaints Adjudicator May 2022

Annex 1
Service complaint data - stages

Year	Number of complaints Stage 1	Number of complaints Stage 2	Percentage Stage 1 to 2	Number of complaints Stage 3	Percentage Stage 2 to 3
2016/17	118	51	43%	21	41%
2017/18	129	42	32.5%	20	47.5%
2018/19	183	45	24.5%	28	62%
2019/20	164	51	31%	36	70.5%
2020/21	91	39	43%	23	59%
2021/22	99	28	28%	12	43%

- 1. I have been impressed by way the team actively identify scope for service improvement through the complaints process, and it would seem that this has led to a notable reduction in the overall number of complaints received at stage 1 in the last two years.
- 2. In the last year there has also been a notable reduction in the proportion of complaints escalated to stage 3. This is in my view a reflection of the very good standard of complaint responses at earlier stages, which provide answers to customers, and assurances that matters they raise are addressed and lessons learnt.
- 3. In the majority of cases I have not recommended a different outcome to that suggested at earlier stages. There was one case where I recommended a reduced level of compensation, as I took the view that the complainant had in part been responsible for matters he complained of, and a case where the service complaints team had strayed beyond its remit. Finally, in one case I recommended increased compensation as I identified a service failure that, whilst not specifically raised as a complaint, had negatively impacted on the complainant.

Annex 2

Recommendations and Actions taken from service complaints escalated to stage 3 in 2021/22

Q	Number of complaints / reasons for escalation	Issues/Recommendations	Actions taken by LeO
Q1	Review compensation	Delays and inaccurate information regarding timescales. Stage 1 and 2 responses do not go beyond the agreed service complaints, to avoid any confusion over the scope of the service complaints process. £100 previously offered is appropriate.	Feedback shared fully with service complaints team.
Q1	3 complaints 0 upheld Additional service issues identified	 Being bullied and dictated to by investigator. Compensation for non-financial loss. £100 has already been offered (upheld that customer was spoken to in in unreasonable manner). This did not take into account the impact on the customer of the failure of the LeO to investigate his main complaint; that the firm rejected his claim. Compensation of £150 because the customer will not now have the opportunity of an explanation as to why this decision was taken. Complaint responses are clearer as to whether complaints are upheld or not. If a different complaint is being upheld, that should be explicitly stated. In this case, that would have been to say that a complaint was not upheld, but instead, the customer had been spoken to in an unreasonable manner. I recommend that the LeO considers whether this was an isolated incident, or whether it reflects a broader issue within the organisation, requiring training on recognising and dealing with vulnerability. Specifically: whether the onus is on individual complainants to raise the need for reasonable adjustments; where customers have difficulty understanding, whether due to language or for other reasons, the service should consider adapting usual practice, to aid understanding. 	 Compensation offered but not accepted by customer. Feedback shared fully with service complaints team and changes introduced to ensure this is clear. Issue in this case was considered to be an isolated incident and the staff member is no longer employed by Leo. However, wider learning has been taken into account in LeO's new vulnerable customer/reasonable adjustment guidance/project - due to be launched by end of Q1 2022/23. This policy is being reviewed in line with a wider audit of policies and procedures.

		This could be achieved through aligning complaints as closely as possible to the language used by the customer, or alternatively providing a table, cross referencing the customer's complaints with the investigator's interpretation of those complaints; -where customers have additional needs, irrespective of whether reasonable adjustments have been requested or made, the threshold for involving an additional member of staff could be reviewed, such that explanations or reassurance can be provided as necessary before matters escalate to formal complaints. 4. LeO review internal guidance on bullying and consider including an objective element to the test.	
Q1	Review compensation	Delays. Two lawyer complaints should have been dealt with together. This was acknowledged and remedied by a decision being set aside and allocation to a new investigator before the matter reached me. Stage 2 findings, including service improvements and compensation offered was appropriate.	n/a
Q2	42 complaints 9 upheld (13 upheld at stage 2)	Complaint made by lawyer. 42 complaints, some of which were of the lawyer's making, e.g. initially having no objection to LeO investigating matters (when he said he had not received the complaint's complaint) but then raised a number of concerns when the findings went against him. 1. Compensation of £150 to reflect the detriment the customer has suffered as a consequence of the matters I have upheld (reduced from stage 2 offer of £250). 2. The LeO considers developing a vexatious complaints policy for service complaints, noting that the Scheme Rules allow for lawyer complaints to be dismissed on the basis that they are frivolous or vexatious. 3. Responses to complaints directly address (and uphold where indicated) what is being complained of. This may sound obvious, but failure to do so can lead to contradiction and	 Compensation offered to customer. Customer rejected that offer. To be considered further in full service complaint process and remit review due in 2022/23. In the meanwhile, this recommendation has been shared with senior management. Feedback shared fully with service complaints team.

		confusion. For example, one complaint included that the customer was being deliberately misled. It is contradictory to uphold this complaint, whilst finding no 'evidence to substantiate your concern that the investigator deliberately misled you'. This has the potential to lead both complainants and members of staff to think that findings have been made (against them in the case of staff) when this is not the case. I appreciate this practice stems from a desire to identify and rectify poor service and hence good intent. I am not critical of related service failings being identified; it is around clarity of language.	
Q2	4 complaints 0 upheld	Language used by LeO was 'harsh' and 'impolite'. This related to a quote from the Scheme Rules [a complaint] does not have reasonable prospects of success, or is frivolous or vexatious. The lawyer complaint had been dismissed on this ground. English was not the first language of the complainant. I make no recommendations as I find the service has been of an acceptable standard. Indeed, I am of the view that the explanations provided to the customer at stages 1 and 2 of the complaints process provided clarity and were of a high standard.	n/a
Q3	Review compensation	Crux of complaint went to substantive issues in lawyer complaint, that it was biased. Compensation of £150 be re-offered to the customer.	Remedy re-offered and accepted by customer. Compensation paid November 2021.
Q3	7 complaints 1 upheld	Fundamentally stemmed from disagreement with the outcome in the lawyer complaint, and related matters such as referrals to the Solicitors' Regulation Authority. 1. In addition to the options of acceptance or rejection being set out in Final Decisions, the covering email or letter, does not request a 'response', but rather, it states explicitly that the customer is required to accept or reject the decision.	1 and 2 - Changes to be incorporated into the changes already underway as part of the project looking at changes to the decisions templates. Proposed changed agreed by Deputy Chief Ombudsman and Operations Managers. L2 ombudsman leading on project and will implement these changes - due Q1/2 2022/23.

	I		
		2. The covering letter or email which accompanies Final Decisions incudes a standard sentence which explicitly conveys the message that any correspondence which does not confirm acceptance or rejection will be reviewed, but not responded to, unless the ombudsman decides that a response is necessary (for example, in order to clarify their decision or its reasons).	
Q3	7 complaints 2 outside remit 2 upheld	Complaint by lawyer. Mistakes made during the course of the investigation meant he had to spend unnecessary time corresponding with the LeO and should be compensated. Not invited to make 'representations'. 1. The LeO considers whether the wording of Scheme Rule 5.19(a) needs to be revised, or guidance provided, to ensure clarity around 'given an opportunity of making representations'. 2. If it has not already been done (I note reference in to amendments to templates in November 2020), I recommend that the standard wording in correspondence sent by investigators, when they seek confirmation that all relevant evidence has been provided, is revised to include reference to representations.	1 and 2 - Existing project underway in which template letters are being revised. Both recommendations are being incorporated into this work to ensure the more recent changes made fully reflect these recommendations. Operations Manager is leading on this project and has confirmed changes recommended will be implemented. Due Q1 2022/23.
Q3	Outside scope (related to lawyer	Calculation of remedy in lawyer complaint. Stage 1 and 2 findings agreed. No further recommendations.	n/a
Q3	Outside scope, review of lawyer complaint	Challenge to Ombudsman decision - requested entire file reviewed. Stage 1 and 2 findings agreed. No further recommendations.	n/a
Q4	1 complaint 1 upheld	Remedy sought for earlier finding of unreasonable service. Lawyer complaint dismissed due to lack of response. Issue in dismissal decision was whether attempts to contact customer had been reasonable. In	Compensation to be offered following issue of stage 3 report.

		dismissing the case, the conclusion was that attempts had been reasonable. Service Complaints (SC) team then found service unreasonable as customer was not contacted by email. This contradicted ombudsman decision. The logical remedy was that the dismissal decision should be reversed. But SC team cannot provide such a remedy. The situation would not have arisen had SC team not exceeded remit. Usually method of contact is a service issue, but here it was inextricably linked to Ombudsman's dismissal decision. 1. The LeO offer customer compensation in the sum of £100, to reflect the impact of the poor service, in that an expectation of remedy was created following identification of poor service, in circumstances where no such finding should have been made. 2. The SC Team, in each case, carefully consider whether matters they are asked to address are in fact matters that have been	2. Feedback shared with service complaints team. And will be considered further in full service complaint process and remit review due in 2022/23.
		determined by an ombudsman, or go to the reasoning of an ombudsman's decision, in order to accurately assess whether a matter is within the Service Complaints remit.	
Q4	9 complaints 0 upheld	This stemmed from disagreement with the decision in the lawyer complaint. A number of related service complaints regarding the format of the Case Decision and inadequate attention given to customer's 32 page response to the Case Decision.	n/a
		Apologies given at stages 1 and 2 appropriate. No further recommendations.	