



The Law Society

The Law Society's response to the Legal Ombudsman's Strategic and Business Plan

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supporting
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1. The Law Society is pleased to have the opportunity to comment on the Legal Ombudsman (LeO) strategic and business plan. The Law Society shares LeO's ambition for complaints in the legal sector to be resolved in an effective and efficient manner.

1) We have suggested what we think are the broader contextual issues that need to be considered in developing our Strategy and Business Plan. Are these the right ones? Would you add any of your own? Please give reasons.

2. The introduction provides a comprehensive summary of issues affecting the legal services market.
3. The previous strategy was focused on getting LeO operational by 6 October 2010 and then working efficiently in its first full year. We agree with the continued emphasis that has been placed on the importance of embedding processes as LeO will always be primarily judged on how it deals with those who come into contact with the scheme.
4. LeO inhabits a uniquely interesting place in the debate over the future of legal services as the Ombudsman is likely to be contacted by consumers of legal services who are not interested in the overarching regulatory structure. Considerable thought will need to be put into determining where the natural boundary of LeO's jurisdiction lies, how LeO deals with multi-disciplinary practices providing some services that are not covered by the legal ombudsman scheme and what LeO can do to help those who need redress after being exposed to unregulated legal work.
5. It would be useful if LeO collected statistical evidence to show how many complaints they received were of a legal nature but outside the Ombudsman's jurisdiction. It may be also useful to know how much time LeO staff spend working through any jurisdiction confusion. The Law Society shares LeO's concerns that the advent of multi-disciplinary practices may lead to a higher possibility that consumers will not realise when some services are unregulated.
6. The Law Society supports LeO's work concerning building links between ombudsman schemes in related areas, such as finance. If consumers are confused about which scheme is the most appropriate to deal with their issues each ombudsman scheme should be able to direct people to the right place. If necessary different ombudsman schemes should work together. It

should be clear which complaints are dealt with by which ombudsman scheme and for double jeopardy to be avoided.

7. One of the strong themes to emerge from the Strategic Plan is that LeO will want to help those who are keen to improve their complaints handling process. The Law Society has unrivalled knowledge of different areas of the legal profession. We would be happy to help LeO in working with the profession on complaints handling matters.

2) We have set out our assumptions in planning for the coming three years. Are these the right ones? How would you refine, alter or add to our assumptions to assist with our planning?

8. As an entirely new organisation it is understandable that predicting levels of performance and demand may not have been as accurate as LeO would have hoped. Further experience should help to improve forecasting ability.
9. A concern raised in the Strategic Plan is that there has been an erosion of the distinction between legal services and legal products. LeO asks the question, if a will generated by a will-writing software programme is not of acceptable standard, should that be defined as a failure of software provider or of the firm offering the service? In the Law Society's view the main responsibility must always lie with the organisation that provides the service to consumers – in most cases this will be the firm. If that was not the case technological aids – far from helping consumers – would lead to consumers being less well protected.

3) Do you have any comments on (a) the approach to forecasting we have taken and (b) the ranges of volumes we have anticipated?

10. LeO had planned on the assumption that around 10% of cases would require an Ombudsman's decision but the figures show that up to 40% of cases have been escalated to this level. Each case that gets escalated puts more pressure on LeO's resources. It would be useful for LeO to try and establish why this has happened, and in particular the extent to which it is a transitional issue. This would help to predict future volumes and shape future policies to try to lower the figure.

4) We have set out five key performance indicators (KPIs) and strategic objectives? Do you agree with them? Please give your reasons.

11. The Law Society agrees with the five KPIs – Timeliness, Quality, Cost, Reputation and Impact. The strategic objectives are both clear and sensible.

5) Is there anything you would add that would help us sharpen up our approach to introducing and measuring KPIs and delivering our strategic objectives?

12. One of the problems with strategic objectives can be how to best measure high level goals. There is no indication in the strategy on how the KPIs will be translated into practical objectives, and how these outcomes will be measured.

6) We have outlined a series of activities and deliverables over the life of this Strategy and Business Plan. Do you have any comments on what we are planning to do? Do you think we have placed our emphasis correctly in the way we are planning Years 1, 2 and 3 of the strategy? Have we missed anything?

13. As LeO becomes more comfortable with 'business as usual' activity it is understandable that LeO will want to develop its capacity to look at the underlying issues around complaints and to use this information to inform both regulatory and policy responses.
14. In the OLC annual report released in July it was reported that of the cases closed LeO resolved 55% within three months of a consumer's first contact and 92% within five months. During their last year of operation the Legal Complaints Service (LCS) resolved 81% of cases within three months of receipt and 92% within six months. It may well be that the last full year of LCS operation saw a level of performance which it would be inappropriate for LeO to seek to match in any event. As a new organisation it is understandable that LeO's speed of resolution is below that of the previous complaints handling body and we expect that LeO will come closer to the LCS level of performance in the next few years.
15. The Law Society recognises that the Legal Services Act gives LeO the possibility to operate a voluntary complaints handling scheme for organisations who operate outside the remit of the Act. The plan states that in 2012 LeO will be conducting research into the impact of operating such a scheme, before consulting on any possible implementation. We look forward to viewing the research.
16. While having a robust complaints scheme is a key component of any consumer protection system, by itself establishing an Ombudsman scheme does not negate the need for comprehensive regulation. Regulation has an important role in raising standards, minimising damaging outcomes and offering a variety of important protections and remedies. There is a risk that voluntary schemes may provide a degree of false assurance for consumers, which would be counter-productive.
17. We would also emphasise the importance of ensuring that both the implementation and running costs of any voluntary scheme would not be borne by the approved regulators, but by the service providers concerned.

7) Do you agree with our approach to setting our budget for 2012 – 2013?

18. The Law Society is pleased that during its first year of operation LeO operated within the budgetary target set by Parliament. When OLC/LeO was created it was promised that the Ombudsman services would be run in a more cost effective way compared to previous legal complaints handling bodies. We are also pleased to note that the Business Plan makes the point that LeO does not want to put any unnecessary financial burden onto the legal profession.
19. We accept that as the shape of the legal services market changes the amount and complexity of the work LeO needs to do may fluctuate. LeO overestimated the number of complaints that they would receive in 2011. The Business Plan warns that if there happens to be a significant increase in

demand then the proposed funding requirements will need to be revisited. The Society hopes that if any increase in volume occurs that LeO focuses on streamlining its procedures in order to avoid exceeding its budget. As LeO acknowledges, their challenge is to balance the needs of all stakeholders, not to be 'quick at all costs'.

8) Are there any other points or issues you wish to raise in relation to this Strategy and Business Plan that haven't been covered in your response to the other consultation questions? Have we missed anything? Is there anything you disagree with? Please give your reason.

20. We have no additional points to make, but would naturally be happy to discuss any aspect of this response with LeO if that would be helpful.