



Legal Ombudsman 2015-2017 Draft Strategy and Budget

A response by

ILEX Professional Standards and the Chartered Institute of Legal Executives

23 February 2015

Introduction

1. This response represents the joint views of the Chartered Institute of Legal Executives (CILEx), an Approved Regulator under the Legal Services Act 2007 (the Act), and ILEX Professional Standards Limited (IPS), the regulatory body for 20,000 members of CILEx. The consultation was considered independently by CILEx and IPS. The outcomes of those respective considerations were exchanged and with no significant difference of opinion between the two organisations, a joint response is tendered. For the purposes of this discussion document, 'we' is used to mean both CILEx and IPS unless the context suggests otherwise.
2. CILEx and IPS promote proper standards of conduct and behaviour among members of CILEx. We aim to ensure CILEx members are competent and trusted legal practitioners who are fully aware of their obligations to clients, colleagues, the courts and the public. We aim to help practitioners maintain competence and improve throughout their careers and to ensure the public know the quality of work Chartered Legal Executives and other CILEx practitioners can provide.
3. CILEx has recently become an Approved Regulator for the purposes of awarding practice rights in litigation, conveyancing and probate. It regulates immigration and advocacy services. IPS is also a regulator of entities through which legal services are provided. This means that IPS is now able to authorise members of CILEx and conveyancing and probate practitioners to provide legal services through entities regulated by IPS.
4. IPS and CILEx provide an alternative route to legal qualification and the new practice rights will allow members and practitioners, who do not come from the traditional legal route to qualify as lawyers and practise through their own legal practice.

Background

5. The Legal Ombudsman (LeO) was created by Parliament as the independent and impartial Ombudsman scheme for consumers' legal complaints. Over the past four years LeO has worked with consumers and organisations to resolve legal service complaints. LeO has now extended its remit to accept complaints about accountants registered with the Institute of Chartered Accountants in England and Wales (ICAEW) relating to probate and in relation to claims management companies (CMCs).
6. IPS has agreed a Memoranda of Understanding (MoU) with LeO. The purpose of this is to have in place clear arrangements and practices that will promote an effective and cooperative working relationship between both organisations. IPS has a positive working relationship with LeO. We feel that the MoU with LeO works well and has enabled both organisations to develop relationships further.

LeO's plans

7. LeO has commented in its consultation paper that it is aware of the changes in the legal landscape and the delivery of legal services through alternative structures, which leaves consumers with little or no redress. The Government will also implement the EU Alternative Dispute Resolution (ADR) Directive through a residual body from July 2015. We note that LeO will consider establishing a voluntary scheme for providers of unregulated legal services, who can choose to join the scheme; we feel that this could enhance consumer protection and redress.
8. We think consumers should have the same redress mechanism available through LeO in relation to unreserved legal activities; however voluntary regulation has limited impact. Providers who want to meet service standards will do so without a scheme. The success of a voluntary scheme will depend on the level of understanding of it amongst service users and the extent to which this drives consumers to regulated providers. We would like further

information about how the scheme will be implemented and where the funding will be obtained from.

9. We are pleased that LeO plans to continue to work openly and constructively with regulators, professional bodies, consumer groups and the Government and fully engage in the ongoing debate on the future shape of redress, consumer protection and regulation of legal services. This work is essential for ongoing consumer protection, to improve services to consumers and to educate the legal sector on good practices. IPS believes that as a part of this commitment, LeO should provide all regulators with regular data. IPS has been provided with sporadic data from LeO about individual practitioners it regulates. With the introduction of independent practice rights for chartered legal executives it is more important than ever that IPS receives regular updates as this can help identify areas where it can work with regulated professionals and entities to improve standards of practice.

Strategy

10. In its strategy LeO had identified four key goals last year and LeO feel that these should continue to be priorities. These are:
 - To continue to improve efficiency
 - To implement agreed changes to LeO's jurisdiction
 - To help create an improved legal complaints handling system
 - To disseminate what has been learned more widely
11. We feel that these goals in the initial year of the strategy have worked relatively well and LeO has made some strong achievements in terms of being able to accept complaints about probate accountants and CMCs.

Goal 1: to continue to improve efficiency

12. One of the core aims of LeO is to continue to increase efficiency and reduce costs. IPS believes that it is essential for LeO as an organisation to continue to improve and stretch annual KPIs. However this needs to be balanced

against providing good customer service and the effective resolution of complaints. We particularly support expanding partnerships and insight to increase understanding of best practice, learn about the latest innovations and benchmark performance. This reinforces our view that LeO needs to work hard not only at exchanging information with stakeholders but also at sharing best practice.

13. We are interested to learn more about the new online complaints portal and the new customer relationship management system. We would like to know more about the implementation of these projects and the benefits they will deliver to the organisation as a whole.

Goal 2: to implement changes to LeO's jurisdiction

14. LeO seeks to identify areas where the extension of its jurisdiction could provide an effective remedy to consumer detriment. LeO has stated that it will ensure that the change to its jurisdiction has no negative impact on its core jurisdiction and that costs are apportioned and accounted for appropriately. We commend the objective of keeping its different jurisdictions separate; however this may be difficult to achieve in practice and will require significant forward planning to ensure that it is implemented correctly.

15. We are pleased that LeO will work with providers to help them understand the role of the Ombudsman, to improve first tier complaint handling and prevent complaints from arising in the first place. This should drive down complaints costs for LeO and ensure that consumers are provided with a better service in the first instance.

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

16. Again we support LeO's aim of creating an improved legal complaints handling system and tailoring this to the changing market place. LeO have stated that this will be done by conducting research so that decisions on developments are evidence-based and focused on what providers and

consumers want. We would encourage LeO to share the outcome of the research with stakeholders to ensure the whole of the legal sector benefits from the research.

Goal 4: to disseminate what has been learned more widely

17. The final goal of the strategy is to share what has been learned more widely. This is vital to help stakeholders develop their complaints handling systems, drive down complaints and to improve consumer experience of legal services. LeO are looking to develop a programme to better inform consumers so that they can make informed choices and know what to expect if they have a complaint. IPS along with other frontline regulators has developed the 'Legal Choices' website, the objective of which is to empower consumers and help them find the right type of legal service for their needs.

LeO Budget and targets for 2015-16

18. We cannot but approve of LeO's determination to reduce unit costs and note that these have been progressively reduced year by year. We agree with LeO's decision to separate CMCs from LeO's core jurisdiction: this is essential. It is advisable for the expenditure and budgets for both areas to be ring-fenced as each is paid for separately - by the legal profession and by the claims management regulator respectively.

Key Risks

19. The key risks that LeO anticipates are managing the complaints of CMCs, particularly in light of the relative lack of information about the nature of demand, and dealing with the subsequent financial and operational consequences and secondly migrating and upgrading the core IT platform and systems to a new hosted infrastructure.

20. Again it is sensible for LeO to ring-fence CMC expenditure and budget as this will provide another layer of protection and not encroach on LeO's core

jurisdiction. A positive aspect of accepting claims about CMCs is that this will provide LeO with an opportunity to develop and test a good business model for any future expansion. LeO will need to ensure that its IT system is well developed and integrates effectively with the new claims portal that it is looking to develop. LeO should ensure that the claims portal is consumer friendly and simple to use.

Key Performance Indicators for 2015-16

21. We are pleased to note that LeO will develop a framework for an expanded set of KPIs and performance measures for the coming and future years, targeted at specific areas for improvement. This will have a positive impact as the organisation can track its performance in future and can identify problematic areas and work to improve those.

Conclusion

22. There are several important themes which have emerged in this consultation paper, including LeO's ambition to extend its jurisdiction and its declared intention to share information with stakeholders. It is very important for all regulators, including the Approved Regulators to receive transparent data from LeO in order to support their regulatory activity.

23. We believe that LeO should at first assess its performance of dealing with CMCs and then use this experience when it looks to extend its jurisdiction. This experience will enable LeO to plan and anticipate the impact the new project will have on resources and costs in the organisation. It will be for a new permanent Chief Executive, when appointed, to progress efficiency initiatives; secure effective regulation of CMCs; and drive LeO's strategy forward.