

Memorandum of Understanding between CILEx Regulation and the Legal Ombudsman

Introduction

1. This Memorandum of Understanding (MOU) sets out a framework for CILEx Regulation and the Legal Ombudsman to work together in order to carry out their independent roles and separate functions in accordance with the Legal Services Act 2007.
2. The Legal Ombudsman was established under the Legal Services Act by the Office for Legal Complaints (OLC). CILEx Regulation is the regulatory body established by the Chartered Institute of Legal Executives (CILEx) to regulate CILEx members. CILEx is an Approved Regulator for Legal Executives. The Act sets out the roles of both the OLC and Ombudsman scheme and the Approved Regulators.
3. The purpose of this MoU is to put in place clear arrangements and practices that will foster an effective and cooperative working relationship between the Legal Ombudsman and CILEx Regulation.
4. In agreeing this MoU, CILEx Regulation and the Legal Ombudsman agree that in working together, each will have regard to the need to promote an effective system of redress for consumers of legal services and avoid consumer detriment in the operational practices put in place to support this agreement.
5. The Legal Ombudsman and CILEx Regulation wish to operate in accordance with good practice and are therefore committed to cooperating and sharing knowledge and expertise to benefit consumers of legal services and the legal profession through the administration of a transparent and robust dispute-resolution scheme.
6. The Legal Ombudsman and CILEx Regulation will continue to monitor the operation of this memorandum of understanding (MoU) and review it as necessary.

Roles of ILEX Standards and Legal Ombudsman

7. CILEx Regulation is the independent regulator of members of the Chartered Institute of Legal Executives (CILEx). It has responsibility for overseeing the education, qualification and practice standards of Legal Executives and other CILEx members and ensuring good standards of professional and personal conduct are maintained by them. It was established to meet the requirements of the Legal Services Act for Approved Regulators to separate regulatory and representative functions. CILEx Regulation deals with complaints about, or allegations relating to, misconduct.
8. The Legal Ombudsman has been established by the OLC under the Legal Services Act. The role of the OLC is to set up and administer the Legal Ombudsman as the ombudsman service for all parts of the legal profession. The ombudsman scheme will be an independent and impartial service that users of legal services can access to resolve complaints about the service provided by their lawyer or firm.
9. The statutory objective of the Legal Ombudsman is to resolve disputes quickly and with minimum formality on the basis of what is fair and reasonable in the circumstances. The scheme has a statutory jurisdiction and a voluntary jurisdiction.

Statutory responsibilities

10. The LSA provides the statutory framework for the operation of the Legal Ombudsman and provides specific responsibilities in respect of complaints and complaints information for both the Legal Ombudsman and Approved Regulators. In particular, the Act requires:
 - a) the Legal Ombudsman to assist regulators carry out their regulatory functions and requires Approved Regulators to take into account the views and operations of the Legal Ombudsman in determining its regulatory arrangements;
 - b) the Legal Ombudsman to provide information to the appropriate Approved Regulator where a complaint is received about an authorised person which is of a conduct nature (section 143);
 - c) the Approved Regulator, when required by the Legal Ombudsman, to report to the Ombudsman the action to be taken or outcome of a referral of a conduct matter. If the Approved Regulator does not produce such a report, and if an Ombudsman considers this is a serious failure, the Ombudsman may make a report to that effect to the Legal Services Board (section 143(4) and (6));

- d) the Approved Regulators and Legal Ombudsman to co-operate and share information which may benefit either body. This information is not limited to ensuring the proper investigation of complaints. It may also include information which an Approved Regulator would benefit from knowing in order to make or amend regulatory policy (section 144); and
 - e) the Legal Ombudsman to report to Approved Regulators the failure to co-operate by an authorised person with a complaints investigation (section 146).
11. The MoU will be complemented and supported by written operational procedures agreed between the Legal Ombudsman and CILEx Regulation. At a minimum these procedures will cover:
- co-operation and information sharing; and
 - reporting misconduct.
12. The Head of Policy and Communications of the Legal Ombudsman and the Head of CILEx Regulation will be responsible for determining and agreeing operational procedures and putting in place effective working practices that meet the overarching objectives of this MoU.

Cooperation and information sharing

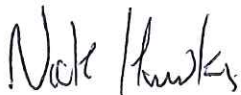
13. CILEx Regulation and the Legal Ombudsman agree that they will:
- a) seek to make sure consumers, legal executives and others understand and are not confused about the different roles of each organisation;
 - b) seek to achieve a complementary and consistent approach as far as possible in the context of their different roles;
 - c) meet and communicate regularly – at appropriate levels of seniority – to discuss matters of mutual interest;
 - d) seek to share expertise wherever appropriate; and
 - e) consult one another at an early stage on any issues which might have significant implications for the other organisation.

14. CILEx Regulation and Legal Ombudsman will agree and periodically review operational procedures on:
- a) routine information sharing including general reporting requirements to support the investigation of complaints by the Legal Ombudsman and the regulatory functions of CILEx Regulation; and
 - b) dealing with cases or trends that raise broader regulatory, policy or other issues; and
 - c) any other relevant operational arrangements.
15. Any information sharing between the two organisations is subject to relevant restrictions on disclosure of confidential information:
- a) So long as it has regard to any rights of privacy, the Legal Ombudsman may disclose information to CILEx Regulation for the purpose of assisting CILEx Regulation or Legal Ombudsman to discharge its functions subject to any rights of confidentiality.
 - b) CILEx Regulation may disclose confidential information to the Legal Ombudsman or the ombudsman scheme for the purpose of facilitating the carrying out of a regulatory function of CILEx Regulation or a function of the Legal Ombudsman or ombudsman scheme.
16. The procedures for information sharing will include the following:
- a) The Legal Ombudsman will give CILEx Regulation information it reasonably requires to enable CILEx to discharge its statutory obligations with regard to the ombudsman scheme.
 - b) CILEx Regulation will give the Legal Ombudsman information it reasonably requires to enable the ombudsman scheme to function efficiently and effectively, about firms or legal executives licensed or authorised by CILEx.
 - c) Routinely, the Legal Ombudsman will provide CILEx Regulation with information about the number, types of complaints handled and outcomes of complaints about legal executives, including information on the number of complaints that were not accepted as within the jurisdiction of the Legal Ombudsman to assist CILEx Regulation to carry out its regulatory functions.
 - d) Routinely, CILEx Regulation will alert the Legal Ombudsman to key areas of risk or concern that it considers relevant to ensure that the Legal Ombudsman is able to discharge its statutory obligations.

- e) If concerns arise, the Legal Ombudsman will give CILEx Regulation information about serious shortcomings by an individual Legal Executive or a firm in relation to complaint-handling or other issues that may require action by CILEx Regulation in its regulatory role.
- f) If CILEx Regulation requests it for actual or contemplated regulatory action, the Legal Ombudsman will give CILEx Regulation (for the specific individual Legal Executive or firm concerned) information about: the number and types of complaints handled; and specific initial and final decisions.
- g) CILEx Regulation will give the Legal Ombudsman information about: proposed changes to rules or guidance on complaints handling by legal executives and firms; and, when it is relevant to the functions of the Legal Ombudsman or Ombudsman scheme, actual and contemplated regulatory action.
- h) The Legal Ombudsman will give CILEx Regulation information about proposed changes to rules or guidance on complaints handling affecting legal executives and firms and, when it is relevant to the functions of CILEx Regulation, actual and contemplated regulatory action.

Reporting possible misconduct

- 17. The Legal Ombudsman will report to CILEx Regulation any possible misconduct that becomes apparent from a complaint that has been made to the Ombudsman service.
- 18. CILEx Regulation and Legal Ombudsman will agree and regularly review procedures about conduct referrals, including how CILEx Regulation will inform the Legal Ombudsman of any outcome of a conduct investigation. Under these procedures the Legal Ombudsman will provide CILEx Regulation with information about the number of conduct referrals made about a firm or legal executive.
- 19. Part of these agreed procedures will include regular feedback to make sure any referrals of a conduct matter about legal executives is in a form that supports CILEx Regulation in its regulatory role. This may also include training for Legal Ombudsman staff members.



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